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Director, Adyar Library

VYAVAHĀRANIRṆAYA

OF

VARADARĀJA

VYAVAHĀRANIRṆAYA

OF

VARADARĀJA

EDITED BY

K. V. RANGASWAMI AIYANGAR

AND

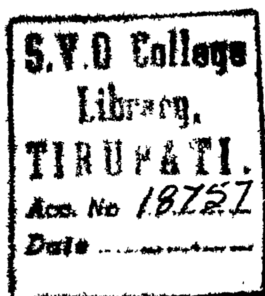
A. N. KRISHNA AIYANGAR

WITH A FOREWORD BY

SIR P. S. SIVASWAMY AIYER, K.C.S.I., C.I.E., LL.D.

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TO THE MEMORY OF ANNIE BESANT

AND OF

HER DEVOTION TO SANATANA DHARMA

FOREWORD

RAO BAHADUR K. V. RANGASWAMI AIYANGAR is well known in South India as a distinguished Professor of History and Economics. Endowed with a brilliant and versatile intellect, he has an insatiable love of learning and historical research. His strong religious leanings and his spirit of reverence for the past have attracted him to the study of the digests of Hindu Law and filled him with the ambition to produce scholarly editions of our ancient law-books. He has already published the smṛti of Bṛhaspati after laborious examination of hundreds of commentaries and *nibandha* works, many of them unprinted. His edition of the *Kṛtya-Kalpataru* of Lakṣmīdhara (c. 1110 A. D.) which will run to several volumes is being published. He has now undertaken a critical edition of Varadarāja's *Vyavahāranirṇaya*, which is one of the digests of Hindu law accepted as authoritative in South India. Though the printing of the text was completed over a year ago, Mr. Rangaswami Aiyangar was not willing to publish it without an introduction adequate to its importance. The introduction is now complete, and the greater part of it is devoted to an examination of the date of the

author and his work. The conclusion arrived at by Mr. Rangaswami Aiyangar is that the *Vyavahāra-nirṇaya* cannot be later than 1250 A. D. and that its upper limit must be the middle of the 12th century A.D. Indian chronology is in many cases a Serbonian bog, and those who are not interested in antiquarian research will not lightly enter it. For my part, I am content to rest upon Mr. Rangaswami Aiyangar's conclusions. The industry that Mr. Rangaswami Aiyangar has brought to bear upon his task is amazing. Those who are not specially interested in the inquiry as to the date of the work may find the synopsis of the work more interesting. The book deals with both substantive and adjective law. It throws interesting light upon the views taken on these subjects in what may be regarded as the middle ages.

The value of a study of the ancient law books to the practising lawyer grows less and less. The increase of legislation and judge-made law steadily tends to render a study of the original works and digests superfluous. The time has now come for a codification of Hindu Law and the recent attempts of the Legislative Department of the Government of India are bound to be welcomed.

P. S. SIVASWAMY AIYER

26th December 1942

PREFACE

AMONG South Indian *nibandha-granthas*, the only important work which had not been printed was the *Vyavahāranirṇaya* of Varadarāja, also known as the *Vardarājīya*. It attracted the notice of Dr. A. C. Burnell, when he was District Judge at Tanjore, and was preparing the descriptive Catalogue of the great manuscript library of the Sarasvatīmahāl of the Tanjore Palace, in which were gathered not only the manuscript treasures that Mahārāja Sarfoji (A.D. 1798-1833) had garnered, both in South India as well as on his tour in North India, but the collections of the cultured Nāyak rulers of Tanjore, who had preceded the Marātha Rājas. Burnell had already translated (1868) the *Dāyabhāga* section of the *Vyavahāra-Mādhavīya*, which he had also found in the Library. He recognized the merits of the *Varadarājīya*, and published in 1872 a translation of its chapter on inheritance and partition, with a valuable and characteristic introduction displaying both his erudition and prejudices. The Rev. T. Foulkes followed with an edition of the *Dāyabhāga* chapter of Pratāparudra's *Sarasvatīvilāsa*, to which an edition of the text in Nāgarī had been added (1881).

The section on inheritance and partition in the more extensive *Smṛticandrikā* had already been translated and published, with comparative notes and section summaries, by a member of the Madras Judicial Service, T. Krishnaswami Aiyar (1867). Thus, seventy years ago, the views on the questions of the most interest to the Courts, which had to adjudicate on Hindu Law in South India, of all the four great South Indian digests, were available in English. No attempt was, however, made to follow it up by the publication of the texts themselves, either partially or in their complete state. It was not for lack of manuscript material. It existed in abundance in both the private and public manuscript collections of South India. But legal interest was exhausted with these translations. It had also become tepid through attacks of J. H. Nelson, Burnell and others on *smṛtis* and *nibandhas* as containing not the law or usage that was actually prevalent in the country but the ideal of law envisaged by a narrow (and selfish and interested) section of the community. The conservative element in South Indian society was not less indifferent. It was more interested in the elucidation of the rules which governed daily rites, special ceremonies and laws of purity and expiation. Paṇḍits like the late Dharmādhikāri Chakravarti Aiyangar of Mysore undertook to meet the need of the S'rīvaiṣṇava section by publishing, in locally intelligible scripts (*e.g.* Telugu) works on *āhnika*, *ās'auca*, *s'rāddha* and *samskāra* of comparatively late *nibandhas* like those of the *Vaidika-Sārvabhaumā* (Hārīta Veṅkaṭācārya

c. A.D. 1450).[1] For non-Vaiṣṇavas the later and fuller *nibandha* of Vaidyanātha Dīkṣita (*c.* A.D. 1600) was printed in two or three editions in South Indian scripts, and one of them was provided by a gifted scholar, who died young, with a Tamil version on the same page as the original Sanskrit.[2] Minor works on *paurohitya*, editions of the *Kalpasūtras* followed in South India, and mediaeval tracts on controversial points monopolized the attention and enterprise of the paṇḍits of the province. The rival *nibandhas* of Veṅkaṭācārya and Vaidyanātha had no sections on *Vyavahāra*. Their authors apparently felt that there was no need for new digests on *Vyavahāra*. The only attempt to draw upon the *Vyavahāra* sections of distinctively South Indian digests was that of V. Parabrahma Sastri, when he published in 1851 a compendium in Sanskrit named *Vyavahāradarpaṇa*, which was a mere condensation of Varadarāja's treatise.

[1] The following list of works published by paṇḍits like the late Dharmādhikāri Cakravarti Aiyangar of Mysore is collected from the books available in the Adyar Library:

(*a*) *Āsaucas'ataka* with Commentary (Telugu). Sadvidyā Mandiram Press, Mysore, 1884. There is also a grantha edition.

(*b*) *Gṛhyaratnam* with *Kaṇṭhabhūṣaṇam* or *Vibudhakaṇṭhabhūṣanam*. Sadvidya Mandiram Press, Mysore, 1882. Gopala Vilas Press, Kumbakonam has published a grantha edition in 1913.

(*c*) *Pitṛmedhasāra* with *Sudhīvilocanam*, ed. Dharmādhikāri Chakravarti Aiyangar, Vidyatarangini Press, Mysore, 1898.

(*d*) *Smṛtiratnākara*. Telugu edition bears Shelf Number 52. F. 39 in the Adyar Library. There is also a Nāgari edition published by the Lakshmi Venkateshwar Press, Bombay.

(*e*) *Das'anirnayam*, ed. by Dharmādhikāri Chakravarti Aiyangar, Vidya tarangini Press, Mysore.

[2] By Srinivasa Sastri of Nadukkāveri, Chidambaram, 5 Volumes, with Tamil translation, 1898.

The editors of the Mysore Government Sanskrit Series published legibly printed editions (in Nāgarī) of the *Smṛticandrikā* and the *Vyavahāra* part of *Sarasvatīvilāsa.*[1] These editions were not provided with the critical apparatus, which every properly edited classic should have, and could be regarded only as more valuable than the manuscripts they reproduced in print, because they were more easy to read, and were in a script that enjoyed a wider circle of readers. Mr. J. R. Gharpure of Poona has more recently printed[2] editions of both the *Smṛticandrikā* and the *Smṛtimuktā-phala* (*i.e.* Vaidyanātha-Dīkṣita's extensive *nibandha*) in Nāgarī. They show some improvement as they have indices of works cited and of *pratīkas.* Mādhavācārya's well-known commentary on *Parāśarasmṛti*, of which there was not even *one* printed edition in a South Indian script 70 years ago, was published in the *Bibliotheca Indica* between 1883 and 1899 by the Asiatic Society of Bengal. A really satisfactory edition of it in Nāgarī was atlast provided by a learned *paṇḍita* of Mahārāṣtra, the late Vāman S'āstri Islāmpūrkar. His edition took 26 years (1893 to 1919) to complete.

While thus there were at last atleast two editions for each of three South Indian *smṛti-nibandhas*, there was not even one, in any script, of the fourth, *i.e.* Varadarāja's *Vyavahāranirṇaya.* Burnell's trained

[1] *Smṛticandrikā*—Mysore Sanskrit Series Nos. 43, 44, 45, 48, 52, 56. *Sarasatīvilāsa*, Mysore Sanskrit Series No. 71.

[2] Collections of Hindu Law Texts edited by J. R. Gharpure, Poona. *Smṛticandrikā* 1918 (No. 11).

Smṛtimuktā-phala. Varṇāsrama, No. 25 (1), 1927. Āḥnika, No. 25 (2), 1938. Āsauca, No. 25 (3), 1939, S'rāddha, 25 (4), 1940.

mind was impressed by even his examination of only a section of it. He recognized its superiority to the better known work of Mādhavācārya. A more thorough examination would have confirmed his high opinion of it, and its superiority to other South Indian digests, in the qualities that scholars (and lawyers) value, *viz.*, brevity, clearness, precision, close logic, mastery of the relevant literature and technique and absence of pedantry.

In these respects Varadarāja's work will stand comparison with the best treatises of the class from any part of India. Even the *Mitākṣarā* to which and to whose eminent author Varadarāja pays tribute, and on which he sensibly modelled himself, lacks one of his qualities, *viz.*, terseness. The temptation to show off learning by entering upon irrelevant discussions of side issues is one to which *nibandhakāras* succumb, and which Varadarāja has successfully resisted. We can perhaps trace it to the rigorous philosophical discipline to which Varadarāja must have been accustomed, if the identification suggested in this work of the author of *Vyavahāranirṇaya* with the Varadarāja, who composed an acute work on the *Mīmāmsa* of S'abara and Prabhākara, is sustained. The deferential citation of the Varadarāja (who wrote the *smṛti-samgraha*) by so discriminating a critic as Vedānta Des'ika is itself a mark of honour.

After a service of 32 years, I entered early in 1933 on leave prior to retirement from the educational service of Travancore. For years, my spare leisure had been devoted to the study of *Arthas'āstra*. It had

brought me into touch with smṛti literature. The first use to which my recovered freedom was to be put was to rebuild some lost smṛti and to edit, in a form that would satisfy the requirements of modern scholarship, some digest whose age and merits would justify the labour. I was fortunate in my choice. On the suggestion and under the inspiration of Mahāmahopadhyāya P. V. Kane, M.A., LL.M., who had re-built the *vyavahāra* sections of both *Kātyāyana* [1] and *S'ankha-Likhita*,[2] I undertook the reconstruction of the long lost *Bṛhaspatismṛti*,[3] and to rebuild not only its *Vyavahāra* section but its other divisions as well. The task was laborious, involved the examination of hundreds of commentaries and *nibandhas*, many of which were unprinted, and the final utilization of about two-hundred of them, a far larger number than what had been used in such restorations by Dr. Jolly and Professor Kane. It took some years, and the book atlast appeared in 1941, in the Gaekwad's Oriental Series. I also began about the same time to edit the *Kṛtya-Kalpatru* of Lakṣmīdhara (*c.* 1110 A.D.) the oldest *nibandha* now extant, whose value is signified by its respectful citation of it by subsequent *Dharms'āstra* works, and the free use made of it, to the extent of wholesale absorption of entire sections, by Hemādri, Caṇḍes'vara and Mitra-mis'ra. An almost complete manuscript of it had been noticed in the library of the

[1] *Kātyāyana Smṛtisārōddhāra*, P. V. Kane, 1933.

[2] *Annals of the Bhandarkar Research Institute*, Vols. VII, VIII.

[3] Now issued as No. 85 of the Gaekawad's Oriental Series, 1941.

Udaipur Palace by Dr. P. Peterson in 1878. Through influential intercession, I was enabled to obtain a transcript of the entire work from the Government of Mewar. The first instalment of the work, dealing with *Dāna*[1] appeared a year ago, and four other instalments are nearly ready for release shortly. In spite of these heavy commitments, I had resolved to edit Varadarāja's *Vyavahāranirṇaya* also. Before I assumed the Principalship of the Central Hindu College and the duties of University Professor of Economics in the Benares Hindu University in July 1935, a preliminary transcript of the *Varadarājīya* had been made, which was used subsequently for comparison with manuscripts as they became available. The work was carried on simultaneously with the preparations of the other two works and the studies they necessitated, as well as heavy administrative and teaching duties, in such leisure as could be snatched from official work. But, from the outset, I was fortunate in securing the collaboration in editing the *Varadarājīya*, of my old pupil, Mr. A. N. Krishna Aiyangar, M.A., L.T., whose name also appears on the title page of the book.

After three years of steady labour, in the intervals afforded by other work, the *Varadarājīya* was ready for the press. Captain G. Srinivasamurti, *Vaidyaratna*, B.A., B.L., M. B. & C. M., the Director of the Adyar Library, offered to publish the book, first in the *Bulletin* of the Library (*Brahmavidyā*), which was just then

[1] *Kṛtya-Kalpataru of Bhaṭṭa Lakṣmīdhara*, Dānakāṇḍa, Vol. V, (1941), Gaekwad's Oriental Series, No. 92.

being started, and later on independently as a volume in the Adyar Library Series. The offer was gladly accepted, and the first instalment, with a 'Preliminary Note' discussing the value of the *nibandha* and its date appeared in the *Bulletin* in October 1937. The printing was completed in 1940, but the release of the book has had to wait for an introduction that would be adequate to its importance, which, I was unable to provide till now, by circumstances beyond my control. During the whole period of its progress towards publication both editors have had other pre-occupations, largely of an official character.

The text now presented is based on nine manuscripts, which may be deemed fairly representative. They are described in Annexure III. It was not possible to use the manuscripts in the Sarasvatīmāhal at Tanjore, as the new rules framed for that library deny to scholars the loan of manuscripts, and its transcription charges are heavy. An old palm-leaf manuscript in *Nandināgarī* letters from the Mysore Government Library (Acc. No. 904) was obtained and examined, but the want of one familiar with the difficult script used in it, precluded its fuller utilization. As the most complete MS. in the Madras Government library was itself a transcript of a very old palm-leaf manuscript in Telugu letters (No. 3143), and two remaining MSS. in the library were reported to be fragmentary, the publication was not held up till these also could be compared. After the text had been printed, two palm-leaf manuscripts were acquired by me for the library which I was

building up for the S'rī Venkaṭes'vara Oriental Institute, Tirupati, when I happened to be its organizing Director (1939-40). Their examination suggested no changes of any importance.

The collated copy has been bound and deposited in the Adyar Library,[1] as references to citations of Bṛhaspati from Varadarāja's work in my published reconstruction of *Bṛhaspati-smṛti* are to the pages of this copy.

Attention may be invited to some features of this edition. It has a very full index of *pratīkas*. Each entry in the index is followed by the name of the author to whom it is ascribed in the digest. This should be helpful to other workers in the field of *Dharma-s'āstra*. For purposes of comparison, extracts from parallel passages in standard commentaries like the *Mitākṣarā*, the *Anākulā* of Haradatta on Āpastamba and Bhavasvāmin's recently recovered commentary on the ancient version of *Nāradasmṛti*, which bears the title of *Nāradîya-Manusamhitā*,[2] have been given as footnotes. These help in determining the reciprocal relations of the writers. Two points are held as established by the comparison of the text of the *Varadarājīya* with the parrallel passages thus cited *viz*., his obligations to Vijñānes'vara and the antiquity of Bhavasvāmin's *bhāṣya*, whose editor had assigned an untenable and very late date for it.

In the introduction, certain conclusions are advanced. The priority of the *Varadarājīya* to the

[1] Shèlf No. 37. B. 7, two volumes.

[2] Printed in the Trivandrum Sanskrit Series as No. 97.

Madhavīya is established. Its date is shown to be not lower than at least a generation before Vedānta Des'ika's reference to it in a work, whose date itself is fixed as A.D. 1298. The date of Varadarāja is thus pushed back by about four centuries beyond the date which used to be ascribed to him in modern books on Hindu Law. It is close to the date now accepted as that of the *Smṛticandrikā*. It is argued that this work is later (by at least a generation) than the *Vyavahāra-nirṇaya* and that it betrays knowledge of the latter. It is also held that the authors of the *Vyavahāra-nirṇaya* and of the *Mimāmsā-nayaviveka-dīpikā* are identical, that Varadarāja was a pupil of a Sudars'anā-cārya, probably the same as the author of the *S'ruta-prakāsikā* commentary on Rāmānuja's *S'rī Bhāṣya*, and that he was a descendant (four generations removed) of Rāmānuja's pupil, Praṇatārtihara, better known as "Kiḍāmbi Āccān." These are, however, conclusions, which may not perhaps now be accepted by all readers as so firmly established as Varadarāja's date, his being a well-known member of the S'rī Vaiṣṇava community and the author of other books now lost.

The duty of acknowledging obligations remains to be discharged. The heads of the libraries from which the manuscripts used were borrowed are entitled to thanks. Among them specific mention has to be made of *Rājya-ratna*, *Jñānajyoti*, Dr. B. Bhattacharyya, M.A., Ph.D., Director of the Oriental Institute, Baroda, who not only lent manuscripts of the *Varadarājīya* from his library, but provided a complete list of *Vyavahāra* manuscripts

in the Institute; of Professor P.P.S. Sastri, M.A., *Vidyāsāgara*, *Vidyāvācaspati* of the Presidency College, Madras, and former Curator, Oriental Manuscripts Library, Madras, who lent for my inspection and study a transcript of Varadarāja's *Mīmāṃsā-nayaviveka-dīpikā* in that library, and supplied valuable information about the manuscripts in the Sarasvatīmahāl, which he had described in the published Catalogues that bear his name;[1] of Professor Sriram Sharma, M.A., of the D.A.V. College, Lahore, through whose kind intercession the Telugu palm-leaf manuscript of *Vyavahāranirṇaya* in the fine MSS. library of that College was secured on loan; and of the authorities of the Mysore University and particularly Mr. M. S. Basavalingiah, M.A., B.L. the Curator of the Mysore Government Oriental Library, for the loan of manuscripts of the digest.

Mahāmahopādhyāya Paṇḍit A. Chinnaswami Sastri, Principal, College of Theology, Benares Hindu University, helped in the comparison of manuscripts in Grantha and Telugu characters. I have had the advantage of his expert help in studying the crucial passage in the *Dīpikā* on which the identity of the two Varadarājas is based. Professor P. K. Gode, M.A., Curator, Bhandarkar Oriental Research Institute, Poona, and *Mahāmahopadhyāya* P. V. Kane have discussed with me points in relevant chronology. Dr. V. Raghavan, M.A., Ph.D., of the Madras University,

[1] *Descriptive Catalogue of Sanskrit Manuscripts* in the Tanjore Maharaja Serforji Saraswati Mahal Library Vols. I to XIX. Vol. XVII describes manuscripts of works on Dharma S'āstra.

has helped with information about the location manuscripts. Mr. Gode was the first to discover citation of *Vyavaharānirṇaya* by Kāṭayavema, wh pushed its date by a century beyond the date sugges for it by Prof. Kane, whose ***History of Dharmas'āstr*** indispensable to every one who essays to work in the fi

The debt to Captain G. Srinivasamurti is m personal. He accepted the work for publication in series, which he had organized. He provided innum able helps to the study of the digest. And, along w Mr. C. Subbarayudu, Manager of the Vasanta Pr whose fine printing is illustrated in the book now leased, he has shown an understanding of the perso difficulties which have impeded an earlier contribut of the Introduction, for want of which publication been held up for a period which a General Editor a printer with less sympathy and insight would have as generously condoned.

For many years my debt to Sir P. S. Sivaswa Aiyer, K.C.S.I., C.I.E., LL.D. has steadily moun up for the countless acts of consideration. It is n further increased by the benediction of a Forew from his pen. To be ushered into the world with introduction from one so eminent in *rājya-tantra*, and letters is a happy augury of the future of *Vyavahāranirṇaya*.

BASAVANGUDI,
BANGALORE,
5th December 1942.

K. V. RANGASW

CONTENTS

INTRODUCTION

South Indian Works on Vyavahāra

As compared with North India, South India has been relatively poor in *dharma-nibandha* literature. Among South Indian digests those which deal with *vyavahāra* are still fewer. If, on the ground of their having been composed in the Dakhan and Orissa respectively, the *Mitākṣarā* of Vijñānes'vara and the *Sarasvatīvilāsa* of Pratāparudra-deva are excluded, works on *vyavahāra*, with any pretension to authority, composed in what now forms the province of Madras, are reduced to three. These are the *Vyavahāranirṇaya* of Varadarāja, the *Smṛti-candrikā* of Devaṇṇa Bhaṭṭa and the *vyavahāra* appendix to Mādhavācārya's commentary on *Parās'arasmṛti*, commonly referred to as *Vyavahāra-Mādhavīya*. Their authority was recognized by the British Indian Courts,[1] long before the sections on inheritance and partition from these works were translated for the use of Indian judges by T. Krishnaswami Aiyar and A. C. Burnell.[2] The translators made their English

[1] Collector of *Madura v. Moottoo Ramalinga*, 12, Moore's *Indian Appeals* (1836-1872).

[2] The titles of the translations are :

(1) " *The Smriti Chandrika* on the Hindu Law of Inheritance, a work of especial authority of the Madras Schoolboy Devaṇṇa Bhut ;

versions from manuscripts, as the originals had not then been printed even in South Indian characters. The *dāyābhāga* section of the *Sarasvatīvilāsa* was published with an English translation by T. Foulkes in 1881, and the entire section on *vyavahāra* appeared in the Mysore Sanskrit Series in 1929. *Smṛticandrikā* is now available in two Nāgarī editions, and the commentary of Mādhava on *Parāśarasmṛti*, which had not been printed even in Telugu and Tamil-Grantha characters before 1868, appeared in the *Bibliotheca Indica* between 1883 and 1899, and more recently in a scholarly edition prepared by the late MM. Vaman Sastri Islampurkar in the Bombay Government Sanskrit Series.[1] Varadarāja's treatise alone has awaited publication.

Reception of the Varadarājīya

At the beginning of the 19th century, the elder Sir Thomas Strange sought the advice of the Paṇḍits in the cultured court of the Mahārāja of Tanjore on the authorities recognized by indigenous lawyers in South India. The *Vyavahāranirṇaya* of Varadarāja was one of the works then commended to his attention as a work of great authority. Strange seems to have obtained excerpts from it, which he cited in his

translated from the original by T. Krishnaswamy Iyer, Madras, Gantz Brothers, 1867."

(2) "*The Law of Partition and Succession* from the MS. Sanskrit Text of Varadaraja's *Vyavaharanirṇaya* by A. C. Burnell, Mangalore, 1872."

(3) "*Daya Vibhaga*: The Law of Inheritance translated from the unpublished Sanskrit Text of the Vyavahāra-Kāṇḍa of the Mādhaviya Commentary on the Parācara-smṛti, by A. C. Burnell, Madras, Higginbotham & Co., 1868."

[1] Islampurkar's edition appeared in six parts between 1893 and 1911. The *Bibliotheca* edition is full of mistakes.

Elements of Hindu Law.[1] In 1819, F. W. Ellis of the Madras Civil Service selected it as one of the sources to be studied and summarized in the digest of Hindu Law as followed in Madras, which he proposed to make, following the example of Colebrooke's Digest, which was obviously a restatement of the law as followed only in Bengal.[2] The wide use made of it by South Indian lawyers at the time is evidenced by two circumstances. An abridgement of the *Vyavahāranirṇaya* was made, probably in the seventeenth century, in the Malayāḷam country which was followed by the princes and courts, as it was also furnished with a Malayāḷam version. This summary bears the title *Vyavahāramālā*. Manuscripts of it are found in old libraries in Malabar, Cochin and Travancore.[3] It has sometimes been mistaken for the *Vyavahāranirṇaya* by the editors of the descriptive catalogues of European libraries. The digests compiled under the name of Mahārājā Sarfoji of Tanjore on

[1] 1825, vol. II, p. 189.

[2] *Transactions of the Madras Literary Society*, vol. 1. Ellis had Tamil translations made of *Smṛticandrikā* and *Mitākṣarā*, c. 1815.

[3] Eggeling, *Catalogue of MSS. in the India Office*, pp. 456-7, thus: "*Vyavahāramālā*, a manual of civil law by Varadarāja much used in Malabar. According to Burnell, *Dāyabhāga* (1868), Intrdn. p. xiii, *note*, the work, a which is partly in vernacular was compiled in the last century." A. B. Keith's *MSS. in the India Office*, II, p. 437, No. 5506 to 5509 has: "The *Vyavahāramalikā* or *Vyavahāramālā*, a treatise on law popular in Malabar; written in Sanskrit with passages in Malayalam interspersed; *Tālipatra* leaves 68 folia, Kollam Year 985 (*i.e.*, 1810 A.D.); agrees with Eggeling, No. 1504, and ends with Manu's verse given by Eggeling but adds—*prakirṇamiti Vyavahāramālā samāpataḥ*.

Bendall, *British Museum Manuscripts*, p. 66 suggested that *Vyavahāramālā* was the Malayalam version of Varadarāja's work, *Triennial Catalogue of Sanskrit MSS.* Madras, II, 2585-6, but the second of the manuscripts is the original of the Malayalam commentary on *Vyavahāramālā* since published at Trivandram. The Trivandram editor puts the *Vyavahāramālā* about 1400 A. D. Aufrecht, *Cat. Catal.*, p. 551 discriminates between *Vyavahāranirnaya* and *Vyavahāramālā* and ascribes both to Varadarāja. A comparison of the two shows clearly that the latter is an abridgement of the former, with the same colophon, almost the same verses, arranged in the same order, the later book omitting several verses in the earlier. This must be the source of the misconceptions of Aufrecht and Eggeling.

vyavahāra are also based on Varadarāja's work.[1] As late as 1851, V. Parabrahma Sastri published at Madras in Telugu characters a summary of the *Vyavahāranirṇaya* under the title *Vyavahāra-darpaṇa*.[2] Naturally, it has been cited in pleadings in Courts and in judicial pronouncements. A. C. Burnell's translation of the *Dāyabhāga* section of it, (1872) along with his translation of the same section in *Vyavahāra-Mādhavīya* (1868) and T. Krishnaswami Aiyar's translation of the chapters on inheritance and partition from the *Smṛticandrikā*, placed the chief South Indian authorities on the law of inheritance within the reach of judges ignorant of Sanskrit. But, they were all based on imperfectly collated manuscripts and were composed when a knowledge of comparative Hindu jurisprudence was very rare, Varadarāja's work also suffered some neglect owing to the erroneous assumption, which is still perpetuated in standard treatises on Hindu Law, that it is a late compilation belonging to the end of the seventeenth or the commencement of the eighteenth century, and that it lacks originality, being based on the *Smṛticandrikā* and the *Mādhavīya*. Burnell indeed recognized its superiority to the *Mādhavīya*, which he justly characterized as a mere summary of the *Mitākṣarā* and the *Smṛticandrikā*, presenting little or nothing that is new and important.[3] He saw the qualities which contributed to the esteem in which South Indian

[1] Sarfoji's work is named *Vyavahāraprakāśa*, and there is also another work assigned to him entitled *Vyavahārasamuccaya* or *Vyavahārasārasamuccaya*. Sarfoji (Skt. *Śarabha*) was king of Tanjore between 1798 and 1833 A. D. Both manuscripts are in the Tanjore Sarasvatīmahāl Library, which he founded. MM. P. V. Kane, *His. of Dharma*, I, 749 suggests the identity of the two works. There is an early *Vyavahārasamuccaya* which is quoted by Raghunandana and Karmalākara (*ibid*., p. 631).

[2] The reference in Bendall's *British Museum Catalogue of Sanskrit Books*, p. 69 is to this work by Vasudeva Parabrahma Sastri.

[3] See his acid remarks in his Introduction to his translation of the *Dāyabhāga* section of the *Mādhavīya*, p. xii.

Paṇḍits held the *Vyavahāranirṇaya*,[1] though, like most European writers, he failed to appreciate the method of exposition in which all authorities for and against a proposition are marshalled and the conclusion is left to be inferred from the sequence of the argument.[2] He also drew attention to the use of the *gaṇa* system of referring to a series by naming one of its number and the assumption of the reader's conversancy with conventional definitions or *paribhāṣā*.[3] This is hyper-criticism. A book of law is intended for lawyers and judges and not for laymen. A *nibandha* postulates for its correct apprehension a mastery of its technique. Burnell's asperity is not only unjustifiable but somewhat unintelligible in one who possessed a greater knowledge of the technique of Hindu legal literature than most Western scholars of his day, who brought to the study and interpretation of legal classics nothing more than a linguistic proficiency acquired by the study of Sanskrit poems and plays.[4]

Features of the Vyavahāranirṇaya

A printed text admits of much closer scrutiny than a manuscript, however carefully the latter may have been prepared. Admittedly, Burnell, who presented a portion of the *Vyavahāranirṇaya* in an English version for the first time, had not studied the whole book. This is shown for instance

[1] See Burnell's *Introduction*, p. xvi: "Its chief merit is that it is brief and free from pedantic discussions."

[2] *ibid.*, pp. xi-xii in part II.

[3] *ibid.*, pp. xiii-xiv.

[4] Here is an example of Burnell's dogmatism:—"Hindu Law will certainly never be studied by foreigners for its own sake, for it is uncritical and its history and growth are uncertain; it will never be considered a great fact in the history of civilisation, for it has always been the privilege of a few and the wrong of the many, but its study can not be safely neglected in India atleast, and certainly not in the present critical times." (*ibid.*, p. xi). Written in 1872.

by his assertion that the *Mitākṣarā* is not cited[1] though many passages in the *Vyavahāranirṇaya* display a similarity of idea and expression so close as to suggest to those of the *Mitākṣarā* that it was being copied by Varadarāja. Also, as a matter of fact, Varadarāja names Vijñānes'vara once atleast (*infra*. p. 78), while two other references to him are hidden under the descriptive name *Brahmavitpravara*, "the foremost of anchorites," *e.g.* (*inf.* p. 135).[2] Many prose interpretations of s'lokas in the *Vyavahāranirṇaya* show almost a verbal identity to the explanations of the same verses in the *Mitākṣarā*. The closeness of the resemblance as well as the large number of instances of such similarity present a feature that can not be passed over. Attention has been drawn to such instances of identity or parallelism in footnotes in the edition now presented, and the passages of the *Mitākṣarā* are reproduced to enable a comparison to be made. (*e.g.* see *infra* pages 163, 164, 165-7, 169-184, 185-187, 189-192, 221-272, 282, 291, 314, 317, 321, 322, 409, 413, 415, 420, 421 etc.). The citation of Vijñānes'vara's name shows that Varadarāja's borrowing from the *Mitāksarā* may not be beyond probability. Those conversant with Hindu legal literature are, however, familiar with the way in which apparently identical expressions and views reflect not borrowing by one writer from another but both writers drawing upon an older source, or using interpretations orally transmitted from generation to generation. The comparative statement of the authorities cited in the Vyavahāra-kāṇḍas of the *Mitākṣarā* and the *Smṛticandrikā*, *Vyavahāra-nirṇaya* and the *Vyavahāra-Mādhavīya* appended to this introduction[3] will show how Varadarāja cites many authors

[1] *ibid.*, pt. III, p. xvi : "The *Mitāxarā* is not mentioned by name."

[2] See below, p. lxiv where the identity of the two is considered.

[3] Annexure II.

not used by Vijñānes'vara as well as Devaṇṇa Bhaṭṭa and Mādhavācārya. While his views are generally akin to those of Vijñānes'vara, Varadarāja does not hesitate to differ from so acute a writer, or to pass over matters that appeared to the latter as of much importance. The special plea put forward by the *Mitākṣarā* (II, 135-6) for the mother succeeding to her son's property, and then only the father, with four grounds for preferring the mother to the father, which comes in for strong criticism from the *Smṛticandrikā* (ed. Mysore, *Vyavahārakāṇḍa*, pp. 687 ff.), is simply passed over by Varadarāja with the citations of Viṣṇu (*inf.* p. 448) that the father precedes the mother in succession. He goes beyond the *Mitākṣarā* in admitting brothers' sons' sons as heirs after brothers' sons (p. 537 *infra* and Trn. p. 36). Varadarāja, in discussing the charges for funeral rites, leans to the view that *any* one who performs the obsequies has at all events a partial claim (*inf.* p. 441). In many matters his views lean to those of older writers, whose works become more intelligible, as pointed out by Burnell, in the light of his comments.[1]

The merits of the *Vyavahāranirṇaya* consist not only in its independence, and in some cases its originality in interpretation, but in its manifest command of *Mīmāmsa* and *Nyāya*, an indispensable qualification for the proper interpretation of *Smṛti* texts. The work is comprehensive and deals with both procedure (*Vyavahāra-mātṛkā*) and substantive law (*vyavahāra*). It is complete and self-contained. It is lucid and terse. There is no attempt at showing off learning, a weakness of the *Mādhavīya*, whose prolixity is due to the failing. The authorities it cites are generally old, and no writer or writing later than the *Mitākṣarā* is quoted. If Varadarāja did not know Jīmūtavāhana, he was familiar atleast

[1] Burnell's Introduction, pt. ii, p. xi.

with the school of thought of which Jīmūtavāhana was one of the earliest and most distinguished leaders. Burnell noted that Varadārāja leans more on the authority of *Manusmṛti* than most *nibandha* writers.[1] He relies no less on Bṛhaspati.[2] The preference is intelligible in view of Bṛhaspati's famous dictum giving pre-eminence to Manu among writers on Dharma, and directing the rejection of any dicta which traversed those of Manu.[3] He cites (with manifest approval) the warning of Bṛhaspati against an undue dependence on the letter of a *smṛti*, as, in an investigation that leans to a literal interpretation of the *s'āstra*, and in which intelligence and imagination are not used (*yuktihīna vicāre*), there is a real risk of injustice (*dharmahāni*).[4] The author of *Smṛticandrikā* claimed that *his* readers might follow him " without fear " as he sedulously avoided in *his* work anything that might savour

[1] *ibid.*, p. xvi. *Manusmṛti* is quoted 153 times.

[2] Bṛhaspati is quoted even oftener. There are 211 citations of Bṛhaspati.

[3] See *Bṛhaspati S'mṛti*, ed. Rangaswami, (*G.O.S.* No. 85) p. 233 :

वेदार्थप्रतिबद्धत्वात् प्रामाण्यं तु मनोः स्मृतम् ।
मन्वर्थविपरीता तु या स्मृतिः सा न शस्यते ॥

It is quoted by Lakṣmīdhara and Aparārka, among others.

[4] See *ibid* p. 19 :

केवलं शास्त्रमाश्रित्य न कर्तव्यो विनिर्णयः ।
युक्तिहीनविचारे तु धर्महानिः प्रजायते ॥

Bṛhaspati is an advocate of the use of reason in trials. On p. 20, *ibid.*, he points out that thieves might appear in trials to be innocent and innocent persons might seem to be thieves, and Māṇḍavya was adjudged a thief in a trial in which intelligence was not used :

चोरोऽचोरः साध्वसाधु जायते व्यवहारतः ।
युक्तिं विना विचारेण माण्डव्यश्चोरतां गतः ॥

On p. 195 he points out that questions of inheritance must be construed intelligently as otherwise great harm will result.

of personal opinion.[1] Varadarāja, on the other hand, openly claimed that *his* elucidation of law (*vyavahāra-nirṇaya*) was based both on *smṛti* and intelligent reasoning (*yukti-smṛty-anurodhataḥ*). He adds the further comment that he seeks to elucidate and determine (*nirṇaya*) the meaning of *smṛti* (*smṛtyartha*) in order that he might throw light on the topics of law.[2] When he has to brush aside a text that is manifestly inequitable, like the Vedic saying that "women have no *indriya*," which was used to enforce the disability of women in inheritance, he uses his Vedic learning with effect by interpreting *indriya* as the drink *soma*, and demolishes the doctrine that "women are powerless," as the context shows only that women got no share of *soma* juice in a certain sacrifice. The whole treatment of women's rights and alleged disabilities is an example of the skilled interpretation that he commends and illustrates (*infra* p. 456 ff.).

To modern students, who are interested in the reconstruction of lost texts, Varadarāja's work has a special value. It abounds in quotations from works now lost. A number of sayings of Bṛhaspati, Kātyāyana[3] and S'ankha-Likhita, not available in north Indian digests, are to be found in it. Another feature is the ascription by Varadarāja of texts assigned to certain

[1] See the second s'loka in Samskārakāṇḍa ·

स्वाभिप्रायेण हि मया न किंचिदिह लिख्यते ।
किं तु वाचनिकं सर्वं अतो ग्राह्यैव निर्भयैः ॥

[2] *inf.* p. 1 :

लोके सर्वमनुष्याणां विवादे लुप्तधर्मके ।
निर्णयः क्रियतेऽस्माभिः युक्तिस्मृत्यनुरोधतः ॥

सकलविवादपदनिर्णयार्थं स्मृत्यर्थनिर्णयः क्रियते ॥

[3] An illustration of this can be seen in my paper contributed to the *Kane Commemoration Volume*, pp. 7-17 where I have collected over 120 verses of Kātyāyana from the *Vyavahāranirnaya* not available to Prof. P. V. Kane when he collected and edited his *Kātyāyanasmṛti sāroddhāra*.

authors by other writers to different authors. For example, the famous passage eloquently asserting that the wife is half-the-body of the husband, which is commonly attributed to Bṛhaspati, is given by Varadarāja to Prajāpati,[1] a writer whom he frequently quotes. Burnell has assumed that such instances mark the habitual carelessness of our digests.[2] The criticism is facile but baseless. A *nibandha* had to run the gauntlet of much 'informed' criticism, when it was published, and careless citation would not escape adverse notice and prompt castigation. Indian books are in the form of loose leaves, and quotations are copied out from such leaves, eliminating the risks incidental to citations from memory. Students of *Dharmas'āstra* are familiar with the occurrence of identical s'lokas in different *smṛtis*, and with the practice of scrupulous *nibandha* writers mentioning the names of all or most of the writers in whose works the cited verses are to be found. Smṛti texts become standardized when great commentators fix the texts which they elect to follow. But, even among commentators, texts vary for the same work. Small differences are noted in the texts of so well-known a work as *Manusmṛti* between, for instance, Medhātithi and Kullūka; and so in *Yājñavalkya-smṛti* between the text followed by Vis'varūpa (*c*-800 A.D.) and that followed by Aparārka (*c*. 1125 A.D.) The

[1] See *Bṛhaspatismṛti*, ed. Rangaswami, p. 211:

आम्नाये स्मृतितन्त्रे च लोकाचारे च सूरिभिः ।
शरीरार्धं स्मृता भार्या पुण्यापुण्यफले समा ॥
यस्य नोपरता भार्या देहार्धं तस्य जीवति ।
जीवत्यर्धशरीरेऽर्थं कथमन्यस्समाप्नुयात् ॥

[2] "It betrays the usual carelessness as regards quotations. Texts are attributed to wrong authors, and are often inaccurately given." (*Intrn*. p. xvi). Explaining (*ibid*. p. xviii) the great differences in the readings of Bengal and South Indian citations, he admitted: "Partly it is to be attributed to the proverbial carelessness of pandits in such matters, but I think that most probably different recensions of the texts existed."

text of Nārada followed by Bhavasvāmin differs materially from the text supposed to be the one followed by Asahāya (7th century A.D. and published in *Bibliotheca Indica*, 1886). But its editor J. Jolly had previously published a shorter text and an additional chapter, not found even in the larger version, had come to light in Nepal, and was incorporated in Jolly's translation (*S.B.E.*, XXXIII, 1889). Jolly added to his translation renderings of "quotations from Nārada" missing in his text but found in important digests (*ibid.*, pp. 233-267). A list of quotations attributed to Vasiṣṭha forms an appendix to Fuehrer's edition of *Vasiṣṭhasmṛti* (Bombay, 1883). The Chowkhamba edition of Manu provides an appendix of ***Manu-ślokās***, running to thirty pages of close print, comprising verses attributed to Manu in digests and commentaries and not found in the printed and standardized versions of the great code. ***Viṣṇusmṛti*** is now available in print in only the seventeenth century version of it adopted by Nanda Paṇḍita for his commentary, the *Keśava-Vaijayantī*.[1] The footnotes to Varadarāja's text will show how, in many cases, there are lacunae in the printed text of this *smṛti*, which are disclosed by a comparison with the citations by Varadarāja. South India enjoyed for centuries comparative immunity from Muslim attacks and their destructive effects. The great Hindu kingdom of Vijayanagara and the older dynasties which it displaced had been foremost in encouraging literature and culture. The libraries of temples, *maṭhas* and of *ācārya-puruṣas* in places like Kāñcīpura conserved for centuries innumerable works which perished in North India or which were composed in South India itself. A reference to the published works of a versatile writer like Vedānta Deśika will reveal literally hundreds of works in all

[1] In the edition of it, which is under preparation by the Adyar Library, it is proposed to show where Nandapaṇḍita's readings of the *smṛti* are different from those in other works or manuscripts of *Viṣṇusmṛti*.

departments of literature, which once existed in South India and have now passed out of view. Many of the writers cited by Varadarāja are unknown to *nībandha* writers of North India, and are not named even by the *Mitākṣarā*. Where extant manuscripts concur in ascribing certain verses or statements to writers other than those to whom they are commonly ascribed in the work of a scrupulous writer, whose erudition and precision are manifest, the inferences will be warranted that the statements in question are drawn from a common reservoir of floating verses or belong to texts anterior in date to those which commentators standardized.[1] The footnotes appended to the text of the *Varadarājīya* try to indicate all cases in which certain verses are not to be traced in published editions of the authors named, or are to be found in other published works. There are verses attributed to Yājñavalkya (*infra* pp. 327, 350, 386 and 526-7) which cannot be found in the text followed by his great commentators from Visvarūpa (*c.* A. D. 800) downwards. A verse of *Manusmṛti* (VIII, 125) is assigned by all manuscripts examined to Yājñavalkya (*infra* p. 527). Two slokas, which on the authority of other *nibandhas*, are included in Kātyāyana (whose work has not survived in its old shape) are assigned by Varadarāja to Manu and Yājñavalkya respectively (*inf.* p. 350 and p. 493) in whose standardized texts they can not be traced. In the case of writers like Yama, Vyāsa, Hārīta, Devala, Sankha-Likhita, Paiṭhīnasī and Bhāradvāja, whose works have not survived entire, we have no means of checking authenticity, if verses ascribed to them in one digest are assigned to others in another *nibandha*. The scrutiny of their real authorship will have to await the composition of a comprehensive index of

[1] See para 127 of the Introduction to *Bṛhaspatismṛti*, ed. Rangaswami, where the question is discussed, as well as Buehler's *Laws of Manu*, pp. xc. ff., and Jolly's *Hindu Law and Custom*, (trn. of 1928), p. 32.

Dharmas'āstra verses and sūtras such as some University or Oriental Institute, might in the future undertake and complete. Till then, caution is enjoined against the summary rejection of verses bearing more than one author's name as spurious or carelessly ascribed. One often finds later writers work up into their own texts verses from earlier writers, when identity of views is sought to be conveyed.[1] Every printed digest bearing the stamp of antiquity renders a subsidiary service to editors of *Dharmas'āstra* works. *Vyavahāranirṇaya* has this adventitious value.

Use of the Varadarājīya by Later Writers

The lower limits of the date of Varadarāja will be indicated by the writers who cite his work. Early modern legists, who studied the *Vyavahāranirṇaya*, somewhat hastily accepted an uncorroborated story that he belonged to the first quarter of the seventeenth century, and that he was a native of Arcot.[2] Burnell accepted the view, and regarded Varadarāja (judging chiefly by his name) as a native of the Tamil country who lived about that time. He claimed to trace obligations in the *Vyavahāranirṇaya* to the digests of both Devaṇṇa Bhaṭṭa and Mādhavācārya though neither was named, as well as to the *Mitākṣarā*. He thought that there was citation of a passage from Jīmūtavāhana's *Dāyabhāga* and probably some sentences were taken from Haradatta-mis'ra's commentary (the *Anākulā*) on *Āpastamba-Dharmasūtra*.[3] As all these writers

[1] This is so in summaries like *Smṛtisaṁgraha* and *Ṣaṭ-triṁs'anmata*.

[2] This was the statement of F. W. Ellis, based probably on some paṇḍit's information.'' It is there stated (I know not on what authority) that Varadarāja was a native of the Arcot province and that he lived posterior to the Mahratta and Muhammadan conquests, *i.e.*, after the 17th or 18th centuries.'' Burnell, *Introdn.* p. xv. footnote §

[3] *ibid.*, p. xv.

were manifestly far earlier than *c.* 1600. A. D., he did not feel that his chronological conclusion was shaken. Since Burnell's time quotations from Varadarāja's *Smṛtisaṃgraha* (digest) have been found in writers of the sixteenth century. The *Sarasvatī-vilāsa* of Pratāparudra Deva of Utkala, whose date is fixed as A. D. 1515 by Foulkes, on cogent grounds that have been endorsed by MM. P. V. Kane,[1] cites Varadarāja's work. MM. P. V. Kane has referred to citations of it in the *Nirṇaya-sindhu* of Kamalākara Bhaṭṭa (*c.* 1612).[2] Vaidyanātha Dīkṣita cites Varadarāja in several parts of his famous digest, the *Smṛti-muktāphala* (*c.* 1600).[3] They occur in the section on *Āsauca* (Grantha ed. p. 27, p. 108), *Varṇās'rama-dharma* (ed. Ghārpure, p. 119 on the marriage of a *dvāmuṣyāyaṇa* and *Āhnika* (ed. Ghārpure, p. 327 explanation of the *Gāyatrī-mantra*). The citations are prefaced by the words "*Varada-rāja-smṛti-saṃgrahe*" or "*Varadarājīye*" or "*Varadarāja-saṃgraha.*" Hārīta Venkaṭācārya the S'rīvaiṣṇava author of several works on *Dharmas'āstra* (*c.* 1450 A.D.), known in his own community as *Vaidīka-sārvabhauma*, cites Varadarāja's digest in several places in different works.[4] The citations occur in his *Ās'auca-s'ataka-vyākhya* (Telugu edn. pp. 5,56,) *Smṛtiratnākara* (ed. Nāgari, Kalyan, p. 91, p. 14 and p. 85), on the interpretation of the *Gāyatrī*, *Das'anirṇaya* (Grantha ed. p. 69, ; on *samānapravaranirṇaya* and *Sudhīvilocana* (ed. Telugu, p. 60 and p. 92). All these quotations are on *non-vyavahāra* topics and must come from other divisions of

[1] For the date of *Sarasvatīvilāsa* see Kane, *op. cit.*, pp. 410-414.

[2] *ibid.*, p. 530

[3] *ibid.*, 746. *Smṛtimuktāphala* is mentioned in Divākara's *Dharma-s'āstra-sudhānidhi*, composed in A.D. 1686-7 (*ib.*, p. 670).

[4] For the date of Hārīta Venkaṭācārya see Dr. V. Raghavan's paper in the *Journal of Oriental Research*, University of Madras, (subsequently known by the title, *Annals of Oriental Research of the University of Madras*,) Vol. I, pp. 13-21 and Vol. II, p. 14-27. Kane, *op. cit.* p. 745 merely says he is later than 1200 A D., which gives a very generous margin.

Varadarāja's digest (*smṛtisamgraha*) than the *Vyavahāranirṇaya*. In the same writer's *Gṛhyaratna* (Grantha ed. p. 6) there is a citation of a passage of Paiṭhīnasi, as from the section on the law relating to men and women (*strīpumsākhya vivādapada*) in *Smṛti-Varadarājīya*. On p. 376 *infra*, there will be found a prose explanation of the verse of Paiṭhīnasi in question, in the sub-section named in the citation, but the s'loka is missing in the manuscripts used in the preparation of this edition. It is evident that *Smṛti-Varadarājīya* covered both *vyavahāra* and non-*vyavahāra* topics, and was a complete *nibandha* like the *Smṛticandrikā*. The titles *Samgraha* and *Smṛtisamgraha*, with the qualifying word *Varadarājīya*, are either descriptive or the actual designations of his treaties. There are thirteen colophons in the *Vyavahāranirṇaya*, in which, with one exception the subject of the section is stated after the words "*S'rīmad Varadarājīye Vyavahāranirṇaye*." In one case the descriptive words are— "*S'rīmad-Varadarājīye Dharmas'āstre Vyavahāranirṇaye Dyūtāsamāhvayādi ṣaṭ-padakāṇḍam*" (*inf.* p. 522). The *Samgraha*, which is frequently quoted by the *Mitakṣarā*, Aparārka and *Smṛticandrikā* must not be confused with Varadarāja's work, as it was a much earlier treatise, composed between the 8th and 10 centuries.[1] Though Varadarāja does not quoṭe the *Samgraha*, Hārīta Venkaṭācārya does so. A number of early writers or works like *Akhaṇḍādars'a*, Kaṇva, Kavaṣa, *etc.*, are obviously taken by Venkaṭācārya from *Varadarājīya.*

The Significance of the Absence of Mangla-s'loka

In the *Vyavahāranirṇaya* there are no *maṅgaḷa-s'lokas* either at the beginning or at the end of the book. Varadarāja

[1] *vide*, Kane *op cit*, pp. 238-242.

says nothing of himself, and we have to infer his wide and deep learning from the book itself. The author's ancestry, *ācārya* and patron (if he had one) as well as the qualities that he lays claim to, are all usually indicated at the beginning of such a book. Barring the statement (so different from the claim of *Smṛticandrikā*) that he used his reason as well as his knowledge of *smṛti* lore in composing the work, there is no other personal reference. Such reticence is unusual. There are reasons (stated below) for regarding him as a S'rī-vaiṣṇava and as one who lived in the early days of its revival and organization by Rāmānuja and his immediate successors, when devotion to the cult and the *ācāryas* will be made manifest in all works by S'rīvaisṇavas. We notice a similar omission in the *Dāyabhāga* of the celebrated Jīmūtavāhana. The reason in both cases appears to be the same. The proper place for invocation and personal references is the *beginning* of a work ; and, in the middle of a large work it is not usual to make such references. This may be seen in *Smṛticandrikā*. Jīmūtavāhana's *Vyavahāramātṛka* (ed. Ashutosh Mookerjee, 1912) begins abruptly like the *Vyavahāranirṇaya* and the *Dāyabhāga*, but at the end there is a brief reference to Jīmūtavāhana's name and family (*Pāribhadra*) and a justification for a treatment of *vyavahāragaṇa* in the *Nyāya-mātṛkā*, which he presents.[1] If the earlier or later parts of Varadarāja's digest are ever discovered, the missing *mangaḷa-s'lokas* and personal references may be found in them. That the entire work was probably known only by the name of the author—*Varadarājīya* —and that closer indications of a reference related to its

[36] See p 353 :

पारिभद्रकुलोद्भूतः श्रीमान् जीमूतवाहनः ।
विदुषां परितोषाय निर्ममे न्यायमातृकाम् ॥

subject-divisions is evident from the quotation by Kāṭayavema discussed below. There a verse of Kātyāyana about the eight-fold division of the day and the utilization for judicial work of the second, third and fourth divisions, is quoted with Varadarāja's prose explanation *verbatim*, as it occurs on p. 4 of the *Vyavahāranirṇaya*. But, the citation is prefaced with the words—"*Tathā ca uktam Varadarajīye rājadharmeṣu*" —and the names of the section of the *Varadarājīya viz. Vyavahāranirṇaya* and the chapter *viz. Vyavahāraparikara-kāṇḍam*, are omitted. The omission of the name Kātyāyana in Kāṭayavema's citation is due to two causes: firstly, the s'loka is continued after the interruption of a long quotation intervening from the same *smṛti* by a short prose explanation, with the words :—*vyavhhāradars'ana-kālopi tenaivoktaḥ*; and, secondly, because the prose explanation of Varadarāja is more important than the s'loka which, without it, will not be quite clear. The omission of the title *Vyavahāranirṇaya* would suggest that in Kaṭayavema's time the entire work was available, and it was enough to name it and the special topical head in which a passage of it occurred for readers to locate it.

MM. P. V. Kane's View of the Date of the Varadarājīya

In his *History of Dharmas'āstra*, Vol. I, 1930 (p. 530 and p. 736), MM. P. V. Kane took the view that *Vyavahāranirṇaya* was composed about A.D. 1500 or more approximately between 1457 and 1500 A.D. In a personal letter to me dated 3rd February 1937, he explained his grounds as follows. *Sarasvatīvilāsa* cites *Varadarājīya*,[1] which must therefore be

[1] Varadarāja is cited in the *Sarasvativilāsa* in this following pages of the Mysore edition 134, 150, 179, 182, 262, 268 and 269.

earlier than 1515 A.D. the date assigned to the former by Foulkes on cogent grounds. In referring to Varadarāja, the *Sarasvatīvilāsa* describes him as *ādhunika* (recent or modern) [1] but the context shows that the description was to contrast him with Bhāruci, an acknowledgedly old writer. Secondly, neither the *Mādhavīya* nor the *Smṛticandriāā*, which are standard and elaborate South Indian digests, refers to Varadarāja. Mādhavācārya died about A.D. 1386. [2] The date of *Smṛticandrikā* is not quite settled, but as it referes to the *Mitākṣara*, Aparārka and the *Smṛtyarthasāra*, it can not be earlier than A.D. 1150, while it must be atleast a generation earlier than Hemādri, [3] who calls himself the *karaṇādhīśvara* and *mantrin* of king Mahādeva of Devagiri, who reigned from 1260-1271 A.D.[4]

In the 'Preliminary Note,' which introduced the first published instalment of *Vyavahāranirṇaya* in 1937,[5] both these positions were examined and rejected. The argument of silence has to be used with caution. *Sarasvatīvilāsa* does not mention the *Mādhavīya*, a circumstance that long led to the supposition that its author was the Pratāparudra of the Kākatīya dynasty.[6] We shall see later on that a writer, who wrote nearly a century before Mādhavācārya's death in 1386 A.D., has named Varadarāja's digest as *smṛti-saṃgraha*, and yet there is no mention of Varadarāja or of his work by

[1] *Sarasvatīvilāsa*, p. 325 :

अंसंभदते तु भूक्रये ज्ञातिसामन्तसन्निधानात्मकसामन्तकवर्मत्रयवश्यमङ्गीकर्तव्यमिति भारुचेरभिप्राय: । आधुनिकानां वरदराजादीनामपि सम्मतमेतम् । विज्ञानयोगिनस्तु न सम्मतम् । यथाह विज्ञानयोगी—etc.

[2] S. Srikantaiya, *Founders of Vijayanagara*, 1938, p. 154; H. Heras, *Journal of the Mythic Society*, XIX, p. 14.

[3] Kane, *op., cit.* p. 346.

[4] *ibid.*, p. 356.

[5] *Brahmavidyā* (Adyar), Vol. I, pt. 3 (Oct. 1937).

[6] Foulkes, *Sarasvatīvilāsa*, 1881, Intrn. p. xx. Foulkes suggested that the omission is due to the rivalry between the kingdoms of Orissa and Vijayanagara.

name in the *Madhavīya*.[1] Burnell noticed in the *dāyābhāga* chapters of both works similarities of expression and opinion, which led him, on the assumption of Varadarāja being a very late writer, to suppose that he had borrowed from Mādhava. Our present knowledge would reverse the relationship between the two writers. MM. P. V. Kane himself recognized that not much weight could be attached to Pratāparudra's characterization of Varadarāja as an *ādhunika*,[2] as the context shows that even if he had been pre-Mādhava or pre-Devaṇṇa Bhaṭṭa he would be a " modern " as compared to Bhāruci, who is named by Rāmānuja (A.D. 1017-1137) and Vijñānes'vara (*c.* 1118 A.D.).[3] If Varadarāja was a new and unknown writer, without official position or prestige (advantages that Mādhava possessed like Lakṣmīdhara or Hemādri) Mādhava's omission to cite Varadarāja would be more intelligible than the latter's failure to name the *Mādhavīya*. The argument will cut both ways. But, it is now seen that there *are* references to Varadarāja, in a manner suggesting that he was a person of authority, by not only a general writer, who was removed from Mādhavācārya by a generation only, *viz.* Kaṭayavema, but by a discriminating critic like Vedānta Des'ika, who was an elder contemporary of Mādhavācārya. The motives which lead to conscious omission to state literary obligations are manifold.

Further Light on the Lower Limits of Varadarāja's Date

In the ' Preliminary Note ' of 1937 it was suggested that a closer approximation to the date of Varadarāja might be reached

[1] Vedānta Des'ika's *Saccaritra-rakṣā*, ed. Kalyan, p. 47.

[2] See Kane, *op. cit.*, p. 413, note 1014 and his letter dated 3rd Feb. 1937 to the present editor.

[3] Kane, *op. cit.*, pp. 264-265.

by an examination of the substance of the *Vyavahāranirṇaya* and its opinions and their relations to those of other well-known digests. Shortly after the appearance of the above 'Note' in the *Brahmavidyā*, Mr. P. K. Gode, the erudite Curator of the Bhandarkar Oriental Research Institute, Poona, called attention to the citation of a passage from the Rājadharma subsection of the *Varadarājīya* in Kāṭayavema's commentary on Kālidāsa's *Vikramorvasīya*, which is *identical* with the one on p. 4 of *Vyavahāranirṇya* (*Mīmāṃsaka Prakāśa*, III, pp. 15-18).[1] The date of Kāṭayavema therefore furnished a definite lower limit to Varadarāja's date, as the latter must have by that time attained sufficient celebrity to be quoted as an authority to illustrate a passage in an ancient classical drama.

Kāṭayavema was a well-known scholiast and he commented on all the three plays of Kālidāsa and the *Amaruśataka*. He was the minister of his relation Kumaragiri or Vasantarāya, king of Koṇḍavīdu. Kumaragiri was a child when his father, the Reḍḍi king Anapota, died in 1366 A.D., and was succeeded during the minority by the boy's uncle Anavema, who ruled till 1383, when Kumaragiri succeeded him. Kumaragiri's reign was short, and terminated about

[1] See *Vikramorvasīya* with the *Kumaragiri-rājīya*, the commentary by Kāṭayavema, ed. Charudeva Sastri, Lahore, 1929, p. 23. The comment is on Vaitālika's statement in Act II, scene 2 of the play. The whole passage runs thus :

त्वमपि दिवसस्य षष्ठे भागे अष्टधा विभक्तस्याह्नः षष्ठांशो आत्मनच्छन्दवर्ती स्वेच्छावर्ती स्वतन्त्रः तिष्ठसि । तथा चोक्तं वरदराजीये राजधर्मेषु—

दिवसस्याष्टमं भागं मुक्त्वा भागत्रयं च यत् ।
स कालो व्यवहाराणां शास्त्रदृष्टः परः स्मृतः ॥

दिवसमष्टभागं कृत्वा प्रथमं भागमग्निहोत्रार्थं ब्राह्मणतर्पणार्थं च मुक्त्वा अनन्तरं भागत्रयं व्यवहारकाल इति ॥

A.D. 1400.[1] Kāṭayavema survived him. Inscriptions of Kāṭayavema range from A.D. 1386 to 1411.[2] His commentary on the *Vikramorvas'īya* is named *Vasantarājīya* after his patron, who bore the title of Vasantarāja. Mr. Gode suggests that A.D. 1385 (which is close to the date of the death of Mādhavācārya) may be taken as the date of the composition of the commentary in which the passage from *Varadarājīya* is quoted, and that as Varadarāja must have attained sufficient celebrity before his work could be treated as an authority, A. D. 1350 (which is a century earlier than the *upper* limit assigned by MM. P. V. Kane to Varadarāja) may be safely accepted as the *lowest* limit for him.

Vedānta Des'ika and Varadarāja

Subsequent to the publication of Mr. Gode's article, I found a specific reference to "Varadarājīya-Smṛtisamgraha" in Vedānta Des'ika's *Saccaritra-rakṣā* (p. 47 ed. Venkaṭeswar Press, Bombay, 1909). The quotation, which is reproduced in the footnote below[3] is significant in two ways. First, it quotes a verse attributed to Yama in *Skāndapurāṇa* (*Skāndeṣu*) which exalts those whose bodies have been branded with the mark of Viṣṇu's discus (*cakrāṅkita*) as "leaders in *Svarga*"

[1] Paṇḍit Vetūri Prabhakara Sastri gives the reign of Kūmaragiri as A. D. 1391-1400, while K. Viresalingam, *Lives of the Telugu Poets*, I (1917 ed.) p 430 puts the reign as from 1383 to 1400.

[2] V. Rangacharya, *Topographical List of Inscriptions In the Madras Presidency*, Vol. II, 1919, pp. 713-4 and 975-6.

[3] स्कान्दे यमवचनम्—

येषां चक्राङ्कितं गात्रं शूद्रेष्वपि च दृश्यते ।
ते वै स्वर्गस्य नेतारो ब्राह्मणा भुवि देवता: ॥

इति । "शूद्रेष्वपि दृश्यते" इत्यस्य स्थाने "लोकेषु परिदृश्यते" इति वरदराजीयस्मृतिसङ्ग्रहे यमस्स्मृतिपाठः सङ्गृहीतः ॥

(*svargasya netāro*) over Brāhmaṇas, who, in common *smṛti* opinion, are only "gods on the earth" (*bhuvi devatāh*). Vedānta Des'ika points out that the text of *Skānda*, which read *S'udresvepi dṛs'yate* was cited by Varadarāja in his digest (*smṛtisamgraha*) in the form *lokeṣu paridṛs'yate*. Vedānta Des'ika calls it a *Yamasmṛtivacanam*. Varadarāja's version of the dictum of Yama widens its scope, and does away with the forcible contrast implied in the other version, which would place even S'ūdras, who have been branded with Viṣṇu's discus, *above* Brāhmaṇas. While both versions exalt the *marked* devotee of Viṣṇu over even those Brāhmaṇas (who are not) Varadarāja's version reduces the sharpness of the contrast. Secondly, the quotation deals with a non-*vyavahāra* matter, coming under *ācāra*, and shows that Varadarāja's digest definitely dealt with matters outside the *Vyavahāranirṇaya*. A further point to note is the definite S'rīvaiṣṇava leanings of Varadarāja disclosed by his acceptance of this dictum, and his affinity to the school of Rāmānuja.

Vedānta Des'ika's long life extended from A. D. 1268 to 1370.[1] But the chronology of the chief incidents and achievements of his life can, and has been, worked out with great approximation to accuracy. In the determination of the dates of his works, one is often helped by a device which Vedānta Des'ika adopted. The *mangala s'lokas* of his works usually refer to Viṣṇu, as the presiding deity of some important shrine, at which he was worshipping at the time of the composition of the work.

[1] See M. K. Tatacharya's *Life of Vedānta Des'ika* (1911) passim. V. Rangacharya's *The Successors of Rāmānuja* and *The Life and Times of Sri Vedānta Des'ika*, J.B.B.R.A.S. vol. XXIV, pp. 102-136 and 277-312 and the late Mahāmahopādhyāyā Cetlūr Narasimhācārya's Life and writings of Vedānta Des'ika in Tamil, which is the most authoritative, having been written by one who had devoted a life-time to the study of Vedānta Des'ika's work and life. The chronology of the saint's life and writings in this work is followed.

Saccaritrarakṣā, the work in which the above citation of Varadarāja's *smṛtisamgraha* occurs, ends the first chapter of it in which the citation is made, with an invocation of *Dehalīs'a*, the form in which Viṣṇu is worshipped in the great temple at Tirukkoilur in the district of South Aṛcot.[1] It is right to presume, from his well defined practice, that this chapter was composed about the time of his pilgrimage to the above shrine. In the accounts of Vedānta Des'ika's life, no specific date to his visit to this locality is mentioned. But, in conformity with orthodox practice, he must have visited this sacred locality, which has been made memorable as the traditional meeting place of the first three saints (Āḷvars) of S'rīvaiṣṇavism.[2] The only occasion in which Vedānta Des'ika could have made a visit to this holy place was when he was at Tiruvahindrapuram, near Cuddalore, which is a day's journey from Tirukoilur. It is known that Vedānta Des'ika left the former place by his thirtieth year, and that the *rakṣā-granthas* of which *Saccaritra-rakṣā* is the first, were among his earliest works.[3] It may be therefore taken that this work was composed about 1297 A.D., and that, at that time, Varadarāja's *Smṛtisamgraha* (digest) was sufficiently established as

[1] *vide* the following verses at the end of the first chapter of *Saccaritra-rakṣā*, p. 52 .

श्रीमद्वेङ्कटनाथेन सम्यगेतत्समर्थितम् ।
श्रुतिस्मृतीतिहासादिसिद्धं चक्रादिधारणम् ॥
कथमनवमसूक्तैरादिभक्तैर्यथावत् सुविदितनिजतत्वो विश्वमव्यादभव्यात् ।
रथचरणनिरूढव्यञ्जनानां जनानाम् दुरितमथनहेला दोहलीदेहलीशः ॥

[2] The tradition of the meeting of the three *mudal-āḷvārs* here is repeated in all S'rīvaiṣṇava hagiologies The shrine is therefore specially sacred to the communion.

[3] The *rakṣā* works are five. Des'ika's visit and sojourn at Tiruvahindrapuram (Cuddalore) is dated thus by MM. C. Narasimhācārya. pp. 74-75.

an authority to justify the citation of it in support of a textual variant, which carried with it important doctrinal differences.

Saccaritra-rakṣā is in three chapters, and deals with obligations which, according to S'rīvaiṣṇavas, lie upon all right conducted persons (*saccaritra*). The three chapters deal (with appropriate authorities) with the marking of the arms with the marks of Viṣṇu's weapons, the *sudars'ana* (discus) and *pāñcajanya* (conch), the wearing of the *ūrdhvapuṇḍra* (perpendicular caste-mark), and the partaking of the offerings made to God in worship. These are features which distinguish the S'rīvaiṣṇavas from other Brāhmaṇas, especially the so-called *smārtas* of South India. In beginning the third chapter on the acceptance of food, which had been sanctified by being first offered to Viṣṇu, Vedānta Des'ika observes[1] that the topic had been ably and briefly treated (*samarthitam. hyetaṭ samgraheṇa*) by Yāmunācārya (*c.* 950 A.D.), the guru of Rāmānuja, that it had been elucidated (*prapañcitam*) in his *Sanmārga-dīpika* by the learned Varadarāja (*Varadarāja-paṇḍitaiḥ*) and that he himself is only following on their tracks in his exposition of the subject. (*Tadanusāreṇa asmābhirapi nāti-samkṣepataḥ upapādyate*). As the topic comes within the scope of Dharmas'āstra, there is no reasonable ground for ascribing the *Sanmārga-dīpikā* to a Varadarāja different from the author of *Smṛtisamgraha*. But, it is probable that it was an independant work, forming an appendix to the larger digest. Vedānta Des'ika refers to the work again in his *Pāncarātra-rakṣa*[2] as giving a full account of the four *siddhāntas* described in *S'rīkarasamhitā*. It establishes again the Vaiṣṇava character of the *nibandha*.

[1] *Saccaritra-rakṣā*, p. 91.

[2] Bṛndavan edn., p. 33 and Adyar edn. p. 31.

Varadarāja a S′rīvaiṣṇava

The surmise of Ellis that Varadarāja was a native of Arcot province was probably based on no other ground than the name which is common in the Tamil country. Varadarāja is the presiding deity of the great Vaiṣṇava temple at Kāncīpura (Conjeeveram). Names are given in South India to children after those of some presiding deities in famous shrines, to which parents may have made vows or pilgrimages. A grandson is usually named after his grandfather. Rāmānuja spent his early years in Kānci, doing service (*kaiṅkarya*) in the temple of Varadarāja. Vedānta Des′ika was born in one of the suburbs of the ancient city and was specially devoted to Varadarāja. Kānci has been a great centre of S′rīvaiṣṇavism, and the name Varadarāja is common among S′rīvaiṣṇavas. But, this, by itself, will not establish the sectarian leanings of our author. The deferential references to him by an *ācārya* of the standing of Vedānta Des′ika, and—even more—the citation of his authority for practices, which are specially advocated by S′rivaiṣṇavas, are more conclusive. The partiality of Hārita Venkaṭācārya to Varadarāja becomes intelligible in the light of the lead given by Vedānta Des′ika. In a treatise on *Vyavahāra*, following classical expositions of it, there is little scope for an exhibition of sectarian leanings. But, even in it, there are indications of familiarity with practices of S′rīvaiṣṇavas and their Āgama literature. The knowledge could of course be acquired by a non-Vaiṣṇava; but, such dicta as the obligatory nature of *mudrā-dhāraṇam* and the recommendation of the eating of offerings to the deity, mark him clearly as one of the community. The point is of importance in an investigation of his identity.

Varadarājīya and Mādhavīya

A comparison of the two works easily establishes the superior learning and acuteness of *Varadarājīya* and its greater originality. The number of works or writers laid under contribution by it is greater than that drawn on by Mādhava. In spite of the absence of any reference to Varadarāja's work in *Mādhavīya*, it is incredible that it should not have been known to Mādhava. A comparison of page 446 to 459 of *Vyavahāranirṇaya* with pp. 434-436 of *Vyavahāra-Mādhavīya* (ed. V. S. Islampurkar) will show that the latter has obviously adapted and summarized the former. The interpretation of *indriya* in the Vedic dictum—*tasmād striyo nirindriyā adāyādā*—as referring to *soma* and not *vīrya*, is clearly an original idea of Varadarāja, which he has developed with fulness, and Mādhava simply condenses the passage. The whole question of the rights of women to inherit is better argued out by Varadarāja than by Mādhava, who simply copies the former. On, p. 414 of *Vyavahāranirṇaya*, occurs a passage on the unequal partition being contrary to "public feeling" and therefore ineffective "in the Kaliyuga," though based on *smṛtis*, and the authority of Prajāpati is quoted in a verse beginning—*Yathā niyogadharmo 'pi nānubandhyā gavādikā*—while a prose comment explains that just as when a husband is dead the custom of *niyoga* is not now practised because it is opposed to the feeling of the world, and as similarly the sacrifice of cows is given up, so also (unequal sharing in partition) though allowed by *smṛtis* is not followed in Kaliyuga on account of its being hated by the world. In *Vyavahāra-Mādhavīya* (*op. cit.*, p. 492) the same verse is cited after a prose explanation, which verbally reproduces that in *Varadarājīya*, but the śloka ascribed by Varadarāja to Prajāpati is

cited as from the *Saṃgrahakāra*, *i.e.*, the author of the *Saṃgraha*.[1] It will be recollected that the work of Varadarāja is usually referred to as his *Smṛti-saṃgraha*. It is therefore suggested that Madhava's reference here is to Varadarāja as the "author of the Samgraha." A century at least divides Varadarāja from Mādhava in the light of the former being a writer of recognized authority in 1297, when Vedānta Des'ika quoted him. The above suggestion fits in with the chronological relationship of the two writers. *Varadarājīya* can not *now* be put *later* than A.D. 1250.

Varadarājīya and Smṛticandrikā

It is noteworthy that the *s'loka* attributed to Prajāpati by Varadarāja (*inf.* p. 414) is also assigned by the *Smṛticandrikā* (*Vyavahārakāṇḍa*, ed. Mysore, p. 620) to a *Saṃgrahakāra*, but the latter's argument takes a somewhat different line, in regard to the rejection of unequal partition (*viṣama-vibhāga*). Varadarāja rejects the custom, though ancient, on the ground of its being (now) hateful to people (*loka-vidviṣṭam*) and he cites an anonymous half-verse to the effect that he who follows what is hateful to the people loses heaven (*asvargyam lokavidviṣṭam dharmamapyācarennatu iti niṣedhāt*, inf. p. 413), and this is repeated almost *verbatim* by Mādhava (*op. cit.*, p. 492). Varadarāja adds the explanation for *samprati* in the verse of Prajāpati, "in the Kaliyuga" (*Kaliyuge*, p. 414), bringing it also under the interdictions of old

[1] *op. cit.* p. 492: "Uktam ca Samgrahakāreṇā—Yathā niyoga-dharmoyam nānubandhyāvadhopi vā | Tathoddhāravibhāgopi naiva samprati vartate" All manuscripts of *Mādhavīya* ascribe the verse to *Saṃgrahakāra*, while all manuscripts of *Varadarājīya* attribute it to Prajāpati. As the former is a compiler and the latter the author of a *smṛti*, the allusion in *Mādhavīya* is to a *Saṃgrahakāra*, who gave the s'loka, *i.e.* Varadarāja. Reluctance to *name* Varadarāja by Mādhava can be explained.

practices in Kaliyuga (*Kalivarjya*). Madhāva, who has an extensive section on *Kalivarjya* elsewhere,[1] omits this explanation and argument. The *Smṛticandrikā* explicitly explains *samprati* as "now" and "in the Kaliyuga," as done by Varadarāja (*Adya sampratītyetau s'abdau Kali-yugam-abhisandhayoktau*, p. 620) and it proceeds to cite passages on *Kalivarjya*. It quotes the view of Dhāres'vara that "the dictum that the twentieth part of the heritage is deducted for the eldest son" is not accepted as it is "abhorred by the world," and adds to it the words "in the Kali age," which is not in Dhāres'vara's sentence.

It proceeds then to a somewhat irrelevant discussion of the relative validity of the usages of the elect (*s'iṣṭācāra*) and *smṛti* rule, notes that the former has force only when there is no explicit *smṛti*-rule, criticizes Vis'varūpa's rejection of the offering of a bull to a guest because of its being opposed, *like unequal partition*, to *s'iṣṭācāra*, on the ground that (as ruled by Vasiṣṭha) *s'iṣṭācāra* has validity only when there is no rule of *s'ruti* or *smṛti* on the subject, denies as untrue the contention of Vijñānes'vara that unequal partition is "abhorred by the world" and affirms that people are, on the contrary, anxious to give a greater share to the eldest son and other brothers if they are endowed with science, goodness and virtue, and concludes that the ground for rejection of unequal partition, like analogous acts of the past, is *solely* its interdiction for Kaliyuga. It maintains that venerable authors of

[1] Mādhavācārya's enumeration of *Kalivarjya* occurs in his comments on *Parās'arasmṛti*, I, 34 (ed. Islampurkar, I, i, pp. 131 to 140). *Viṣama-vibhāga* (unequal partition) is not in the lists of Kaliyuga inhibitions that he himself gives there. He is consistent in not rejecting unequal partition on this ground. Mādhavācārya indeed quotes in another context the verse of *Ādityapurāṇa* prohibiting five practices in Kaliyuga, *viz.* remarriage of a married woman, extra share for an eldest son, sacrifice of cows, *niyoga*, and the use of the *kamaṇḍalu* (water-pot)—see vol. I, i, p. 91. Varadarāja states the prohibition in Kaliyuga, and Deveṇṇa Bhaṭṭa goes one better and supports it, by adducing further authorities.

digests like S'ambhu, S'rīkara and Devasvāmin have written elaborately upholding as *s'iṣṭācāra* the deduction of a share (*uddhāra-vibhāga*) for the additional benefit of the eldest son.

A comparison of the entire discussion in the three works under review shows: firstly, that Mādhava simply adopted the view and even the words of the *Varadarājīya*, and secondly *Smṛticandrikā* felt the need to rebut the dictum of the *Saṃgrahakāra* (*i.e.*, Varadarāja in this instance) and his explanation that unequal partition was invalid in Kaliyuga because it is hateful to the present day world. A comparative study leaves on one the feeling that all the elaborate and not altogether relevant discussion of Devaṇṇa Bhaṭṭa is aimed to discredit Varadarāja's views. If Varadarāja was later than Devaṇṇa Bhaṭṭa and was aware of this discussion, one would expect him to reply at some length to the special pleas of the latter on the topic.

Burnell affirmed, on the basis of an entry in a manuscript from the Tanjore Palace Library that he had consulted, that in the *Varadarājīya* (*infra.* p. 408) the well-known verse of Bṛhaspati (that in the case of brothers living undivided and depending on a common cooking, the worship of *pitṛs*, gods and Brāhamaṇas will be one only, while in the case of divided brothers such worship will be repeated in every divided brother's house,) was cited as from the *Candrikā*. The s'loka is one of many which uphold the value of partition, on the ground of its bringing about an increase of spiritual benefits to ancestors and gods. On the basis of the entry *Candrikāyām Bṛhaspatiḥ* in the manuscript that he used,[1] introducing this s'loka, Burnell held that the *Vyavahāranirṇaya* referred to *Smṛticandrikā* and was therefore later than that work. As Burnell held the view that

[1] Burnell, *Introduction*, p. xvi.

the *Varadarājīya* was written only about 1600 A.D., the inference of its being later than *Smṛticandrikā* seemed natural. But, the words *Candrikāyām Bṛhaspatiḥ* do not occur in the context in any one of the nine manuscripts used in the preparation of this edition, or of another three which came into my control later on. There is no other reference anywhere in the *Vyavahāranirṇaya* either to *Smṛticandrikā* or its author, Devaṇṇa Bhaṭṭa. It is not Varadarāja's practice to specify the source of his quotation of a *familiar* verse. In works like his, the source of a quotation is given only if the s'loka quoted is rare, or if its authenticity might seem doubtful. Such an indication precedes quotations from the less known Purāṇas or works whose texts are notoriously corrupt. The s'loka of Bṛhaspati in question is indeed found in the *Smṛticandrikā* but it is a very well-known dictum of the sage, and is quoted by most commentaries and digests. (*Vide* references in the footnotes to *Bṛhasptismṛti*, ed. Rangaswami, 1941, pp. 196 and 336). Twenty citations of this s'loka from 18 books have been noticed there ranging from the *Kṛtya-Kalpataru* (*c.* 1110 A.D.), Aparārka's commentary on *Yājnavalkyasmṛti*, Haradatta's *bhāṣya* on *Gautama-dharmasūtra*, to more recent works. Eight more citations have come under my notice since 1940. It is absurd to argue that Varadarāja needed an authority for the source of so well-known a s'loka. Among the other 210 quotations from Bṛhaspati that he has quoted, there is only one, which is so introduced, and that is so because (see *inf.* p. 61) it is a *rare* s'loka. The word *Candrikāyām* must have been interpolated by a reader or scribe. How such entries by readers might cause chronological difficulties may be seen from the discussion of a similar entry of the name of Vijñānes'vara in *one* late manuscript of the *Vyavahāra-Kalpataru*, when the view cited there as

Vijñānes'vara's is diametrically opposed to his recorded opinion. The text of *Vyavahāranirṇaya* contains no reference to *Smṛticandrikā*.

The close approximation to the dates of both Devaṇṇa Bhaṭṭa and Varadarāja makes the problem of their relations intriguing. As Hemādri cites *Smṛticandrikā*, and Hemādri's digest must have been composed between A.D. 1260 and 1271, MM. P. V. Kane places Devaṇṇa Bhaṭṭa at least a generation before Hemādri, *i.e.* the composition of *Smṛticandrikā* is about A.D. 1225. Vedānta Des'ika's citation of Varadarāja in a tract composed about 1297 A.D. and the deferential way in which the allusions are made to him, suggest a time limit for Varadarāja not lower than A.D. 1225. A comparison of the writers whom both lay under contribution (*vide* Annexure II) shows that Vijñānes'vara is the latest writer quoted by Varadarāja, while Devaṇṇa Bhaṭṭa quotes also Aparārka, (A.D. 1120-1140). The panegyric on Vikramāditya VI, with which the *Mitākṣarā* ends, refers to him as having mastered his rival the Coḷa emperor Kulottunga (A.D. 1070 to 1120) and ruling a territory stretching from the eastern to the western ocean. It has been shown (*vide* Introduction to the *Dānakāṇḍa* of the *Kṛtya-Kalpataru op. cit.*, p. 37) that it was only in 1118 A.D. that Vikramāditya's dominions ran from sea to sea, as he conquered only in that year the Eastern Cālukya dominions.[1]

[1] आ सेतोः कीर्तिराशे रघुकुलतिलकस्या च शैलाधिराजात्
आ च प्रत्यक्पयोधेश्चटुलतिमिकुलोत्तुङ्गरिङ्गत्तरङ्गात् ।
आ च प्राचस्समुद्रान्नतनृपतिमशिरोरत्नभाभासुराङ्घ्रिः
पायादाचन्द्रतारं जगदिदमखिलं विक्रमादित्यदेवः ॥

See Introduction to the *Dānakāṇḍam* of the *Kṛtya-Kalpataru*, (Gaekwad's Oriental Series, XCII, 1941, ed. Rangaswami) pp. 35-38. Kulottunga's territory reached its maximum extension in A.D. 1115, when it virtually embraced the entire Madras Presidency with the intervening Indian states, and parts of the Bombay Karṇāṭaka. In 1116 the tide turned, and by 1118, Vikramāditya

The *Mitākṣarā* must therefore have been composed when Kulottunga was alive, and after Vikramāditya's territories, by conquest of Coḷa areas, had extended them from sea to sea. I have suggested c. 1120 A.D. as the date of the composition of Vijñānes'vara's great commentary.[1] Aparārka's work must be some years later.[2] While fuller than the *Mitākṣarā* it does not rise to the high level of excellence attained by Vijñānes'-vara's masterpiece. Not much can be made therefore from Varadarāja's failure to cite Aparāka. The explicit naming of Vijñānes'vara by the *Vyavahāranirṇaya* (p. 78) must therefore be accepted as authentic. It is supported by all the manuscripts collated, and the obligation of the *Varadarājīya* must be manifest therefrom, even if the many passages showing not only identity of views but of expression between the two may be explained away as both drawing from a common source or sources. The circumstance that both the *Varadarājīya* and the *Smṛticandrikā*, while generally agreeing with the views of the *Mitākṣarā*, dissent from its views on important points, will indicate a period early in the history of that great commmentary, when its reputation had not been firmly established.

There are certain points which appear to indicate the priority of the *Varadarājīya* to the *Smṛticandrikā*, and to a knowledge of the former being possessed by the latter. These may now be briefly stated.

Firstly, there is the reference to the view of the *Saṃgrahakāra* (a name which would describe Varadarāja in view

VI had conquered the old Eastern Cālukya territory (Kulottunga's hereditary dominions, with the Karṇāṭaka and Konkān, and his kingdom *then* literally marched from sea to sea.

[1] *ibid.*, p. 38.

[2] *ibid.*, p. 24 and A. S. Altekar, *The Silaharas of Western India*, *Indian Culture*, II, pp. 412-413, Aparārka's work must have been composed *after* A.D. 1126. He died in 1140.

of the usual citation of his work as *Smṛti-saṃgraha* by writers from Vedānta Deśika (born c. A.D. 1268) downwards that unequal partition is now obsolete like *niyoga* and other practices of the past (*vide supra*, p. 49). Varadarāja ascribes the view to Prajāpati (all manuscripts concur in this), while *his* views appear to be those cited and discussed by both Devaṇṇa Bhaṭṭa and Mādhavācārya. If this be so, Varadarāja is earlier than Devaṇṇa Bhaṭṭa. Prajāpati to whom the śloka is given by Varadarāja (*inf.* p. 414) is a writer, who is cited in the *Vyavahārakāṇḍa* of *Smṛticandrikā* twenty-two times, and in the *Vyavahāra-Mādhavīya* eighteen times, while *Vyavahāra-nirṇaya* quotes him as many as fifty-seven times. It cannot be argued that, when the views are stated by these two writers as *Saṃgrahakāra's*, they were unaware of its ascription to Prajāpati. A slight confusion between the śloka in question and its interpretation by Varadarāja's *smṛtisaṃgraha* must explain the allusion to the *śloka* as *Saṃgrahakāra's*

Secondly, there is Devaṇṇa Bhaṭṭa's claim that he put nothing in his book as his own view, and that therefore whatever *he* had written might be accepted without fear. It should be read as a counterblast to Varadarāja's declaration that he had made his determination of *vyavahāra-dharma* following *both* smṛti and *reason* (*yukti*).

Thirdly, there is the case of an aged father, who separates himself from his sons after partition, and lives either alone or becomes a *vānaprastha* or *sanyāsin*. If, in these circumstances, either he or his sons are reduced to poverty, resumption of the property given to the sons may be made by the father, or some share in his hands may be given to them for their support. The authority for the rule is Hārīta. (*inf.* pp. 407-408). In support of the rule, a *śruti* (Vedic) passage, about the refilling on exhaustion of certain jars used

in sacrifices, is quoted. "The father is the jar (*graha*) called *āgrayaṇa*, and the sons are the other jars. If the *āgrayaṇa* is exhausted or is dried up, one should take Soma from the other jars and fill it up. Similarly, from the *āgrayaṇa* if the other jars are emptied.' Thus, it is explained."

The above is a translation of the passage, which is printed on p. 407, making the comment part of the passage of Hārīta. This passage of Hārīta is simply quoted without the Vedic comment by Lakṣmīdhara.[1] Caṇḍes'vara quotes the passage of Hārīta also without the allusions to the jars, and adds comments from Halāyudha and the *Pārijāta* (p. 21 of S. Sitarama Sastri's Trn., 1898). The Vedic simile is not found even in the *Vīramitrodaya*[2] (p. 437). It is also missing in the *Mādhavīya*. *Smṛticandrikā* further develops the idea briefly stated in *Vyavahāranirṇaya* (*op. cit.*, pp. 611-612) and divides the passage of Hārīta into two parts, making the Vedic simile an explanation contained in Hārīta's dictum itself. The manner in which the passage of Hārīta is reproduced by Lakṣmīdhara (who was an acknowledged master of *Mīmāmsa*), *without* this comment, which would have been to his heart, should justify suspicion of its forming part of Hārīta's text. The latter is printed, following the lead of *Smṛticandrikā*, combining the illustration with the earlier part of the quotation. It looks, however, as if Varadarāja cited Hārīta and added the illustration, which Devaṇṇa Bhaṭṭa paraphrased, using almost the same words as Varadarāja.

Fourthly, Varadarāja develops the idea that partition of inheritance is advantageous because it increases Dharma, and particularly specifies the performance of more s'rāddhas,

[1] See folia 982 of the Press copy of the *Vyavahāra-kāṇḍa* of the *Kṛtya-Kalpataru* prepared by the present editor. It will be published shortly.

[2] See *Vyavahāraprakās'a* of Mitra-mis'ra's *Vīramitrodaya* ed. Jibānanda, 1875, p. 437.

domestic worship and gifts to Brāhmaṇas. *Smṛticandrikā* arrives, after the *same* citations, at the *same* conclusion, after setting up and demolishing an objection that partition will *alone* increase the worship of the domestic fire by more persons, as such worship is incidental to division. This is denied by Devaṇṇa Bhaṭṭa, on the ground that ownership, and the obligation to maintain the fire already exist even before division (*op. cit.* p. 607). The comparison of the two passages shows that Varadarāja's was the original, which was worked up with a parade of learning by Devaṇṇa Bhaṭṭa as an ' improvement.'

In all these cases Varadarāja's treatment is briefer, more direct, and more natural than Devaṇṇa Bhaṭṭa's, which is characterized by diffuseness and laboured attempts at " showing off " superiority by irrelevant discussions. The difference suggests that the latter deliberately tried to excel the former.

How far the results fit in with the internal evidence of Vyavahāranirṇaya

Among early writers whom Varadarāja refers to are Asahāya (*inf.* pp. 135, 230 and 455), Vis'varūpa (*inf.* pp. 78, 135 and 474), Dhāres'vara (*inf.* pp. 78 and 135) and S'rīkara (*inf.* p. 135). The *Ṣaṭ-trims'anmatam* is quoted twice (pp. 13 and 268). Asahāya is of course the famous *bhāṣyakāra* on *Nāradasmṛti*, who appears to have commented also on *Gautama-Dharmasūtra* and *Manusmṛti*. It is perhaps the last circumstance that has lead *Bālambhaṭṭīya* to explain the expression *Asahāya-Medhātithi-prabhṛtīnām* in the *Mitākṣarā* as " the peerless Medhātithi." Burnell copied the

error.[1] Asahāya's lowest limit is A.D. 750 as he is quoted by both Vis'varūpa and Medhātithi whose dates may be taken to be *c.* A.D. 825 and 850 respectively.[2] Dhāres'vara is Bhoja, whose reign runs through the first half of the eleventh century A.D.[3] MM. P. V. Kane assigns S'rīkara to the 9th century.[4] He would place the *Ṣaṭ trims'anmatam* in the period A.D. 700 to 900.[5] All these are pre-Vijñānes'vara, and he is, independantly of the innumerable parallelisms, which might suggest borrowing from him by Varadarāja, *named* on p. 78. No work or writer, whose date is later than that of Vijñānes'vara, is either quoted or alluded to in *Vyavahāranirṇaya*, whose *upper* limit may therefore be safely taken as the middle of the 12th century A.D.

There are a number of writers and works laid under contribution by Varadarāja in *Vyavahāranirṇaya* that are not cited, or were unknown to his rivals. On the other hand, there are works which they use and he does not. One prominent omission in his digest is the *Samgrahakāra*,[6] who is cited in their *Vyavahāra* sections alone by Devaṇṇa Bhaṭṭa

[1] Kane, *op. cit.*, p. 250 and footnote 515, which cites the passage of the *Mitākṣarā* so explained by the *Bālambhaṭṭīya*. (Burnell's identification of Asahāya with Medhātithi is indicated in the list of works cited by Varadarāja in his *Dāyabhāga* section, iii *op. cit.* p. xvi)

[2] Kane, *op. cit.*, p. 250 (Asahāya), p. 263 (Vis'varūpa) and p. 275 (Medhātithi).

[3] Kane, *op cit.*, p. 276 for the grounds for identifying Bhoja the Parmāra king of Dhārā with Dhāres'vara and p. 279 for the limits of his reign revealed by inscriptions. An inscription of Bhoja's successor, Jayasimha, is dated *Samvat* 1112, *i.e.*, A.D. 1055-56 (*Epigraphia Indica*, III, pp. 46-50)

[4] *op cit.*, p. 268: " S'rīkara must be placed somewhere between 800 and 1050, and probably flourished in the 9th century "

[5] *ibid.*, p. 239: " This compilation must have been among the latest products of the age of smṛtis and was probably compiled sometime between 700 and 900 A. D."

[6] *ibid.*, p. 242: " The *Samgraha* was probably compiled between the 8th and tenth centuries." The close affinity between its views and those of Dhāres'vara may suggest that Bhoja followed it, and that the distance of time separating him from it was inconsiderable.

and Mādhavācārya, as many as 66 and 12 times respectively. We may ask " Why, this omission ? " We have seen that one of these cases of citation by *Smṛtcandrikā* probably refers to Varadarāja's own work, which is usually referred to as his *Smṛtisamgraha*. It is suggested that the identity of names and the confusion it would cause induced Varadarāja not to utilize the older work of the name, though it must have been available to him also.

When a compiler is unable to identify a *smṛti* passage, he usually saves himself the trouble by vaguely referring to it as *smṛtyanatare*, *smṛtiḥ* or *eke*. The frequency of such citations is a rough index of a compiler's lack of diligence or even accurate knowledge of sources. In the *vyavahāra* sections of the *Mitākṣarā*, *Smṛticandrikā*, *Varadarājīya* and *Mādhavīya* the number of such anonymous references are respectively four, one-hundred-and-fifty-seven, thirty-five and forty. The contrast between Devaṇṇa Bhaṭṭa and Varadarāja in this respect is significant.

One of the works cited by Varadarāja is *Akhaṇḍādars'īya*,[1] (*inf.* p. 434), which the other three do not cite at all, and which seems to have been freely used by later writers like Hārīta Venkaṭācārya (*e.g.* his *Sudhīvilocana*, Telugu ed. pp. 45, 51, 84, 128, 133, 144, 150, 155, 209 ; *Das'anirṇaya* ed. Telugu, pp. 69, 72, and 123). Manuscripts bearing the name are available in South Indian libraries. The presence of so many quotations from it in Hārīta Venkaṭacārya's works, on non-*vyavahāra* topics, may suggest that in treating those topics, in the sections of the *Varadarājīya* now lost to us, larger use may have been made of this comparatively unknown author, who was probably a native of South India, where

[1] An edition of *Akhaṇḍādars'a*, for which materials exist in South Indian manuscript collections, will be welcome. Dr. T. R. Cintāmaṇi of the Madras University has mentioned to the editors that he is at work on one.

alone manuscripts of his work and citations from it have been found.

Udyotana is a writer who is referred to twice (*infra* pp. 78 and 455 *inf.*). In the first reference, Udyotana's name is coupled with those of Dhāres'vara and Kṛṣṇa "and others" in regard to the application of the test of ordeal (*divya*) in the absence of the evidence of written documents and witnesses. The second case is an allusion to Udyotana's interpretation of the word *eva* in *Manusmṛti*, IX, 185, where his view is identified with that of Asahāya. It is possible that both are ancient commentators on *Manusmṛti*. An *Udyota* is quoted in Jīmūtavāhana's *Dāyābhāga* (II, 9), but otherwise the writer is unknown to the later writers. There his opinion is regard to a text of Yājñavalkya (II, 121) is given. If the *Udyota* and the *Udyotana* are the same, the writer may have been a *nibandha-kāra* now forgotten. MM. P. V. Kane's *History of Dharmas'āstra* contains no reference to him.

Another unknown writer, who is quoted by Varadarāja, is Agnimitra (*inf.* p. 130). It is a verse containing the dictum that if land has been enjoyed by three generations, in accordance with law (*yathā-vidhi*), even though there may be no written document proving proprietorship, the fourth generation will have unquestioned ownership of the property. We know of no *smṛti* writer named Agnimitra. Kṣīrasvāmin in his commentary on the *Amarakos'a* (II, viii, 2) interprets Agnimitra as S'ūdraka. (*S'ūdrakastvāgnimitro vā Hālasyāt S'ātavāhanaḥ*). In *S'ākuntalā* (VI, 155) Duṣyanta declares himself the protector of those who have no kindred to protect them, after deciding that the property of a dead merchant belonged to the child in his widow's womb.[1] Can this dictum of

[1] The s'loka (*S'ākuntalā*, VI, 155, ed. Monier Williams, p. 251) comes from Duṣyanta at the end of a scene which represents his being approached, when in a reminiscent mood about S'akuntalā, by a messenger who brings a

Agnimitra be a similar decision of a historical ruler, which had passed into tradition through some lost play?

A work bearing the title of *Daṇḍaprakaraṇa* seems to be cited on p. 208 for a half-verse, but the s'loka occurs in *Yājña-valāya-smṛti* (II, 159) and the word *daṇḍa-prakaraṇa* is therefore only the heading of the section in that authority.

Dharma-droṇa is another work from which some verses are cited on p. 353 in the chapter on *Sambhūya-samutthānam*. This is very probably an allusion to a *Dharmas'āstra* attributed to the hero Droṇa, bearing the name of *Ratnakaraṇḍikā*. A very old manuscript of it, containing about 2500 s'lokas, was found by the late MM. Haraprasāda Sastri in the Darbar Library at Khatmandu in Nepal.[1] The manuscript gives the date of its *transcription* as S'amvat 1189 (*c.* A.D. 1132) and the Mahāmahopādyāya described it as "the most ancient manuscript on modern *smṛti*" and as "the oldest manuscript dated in a non-Nepalese era and in a non-Nepalese character found in this collection." The work is not known to other *nibandhakāras* and is as unique as is its citation by *Varadarājīya*. A *transcript*, contemporary with Vijñānes'vara and Lakṣmīdhara, pre-supposes an *original* far older.

A work on *Dharmas'āstra*, bearing the descriptive title of *Pancādhyāyī*, is cited twice, once for introducing a quotation

note from the Minister for royal approval. A merchant, who had amassed money in foreign trade and had married many wives, died in a ship wreck without offspring. His name was Dhanamitra. The Minister recommended that the estate should escheat to the king, according to law. Duṣyanta remarks on the sad state of being childless, enquires if any of the dead merchant's wives is *enceinte*, and is told that one of them, the daughter of a *s'reṣṭin*, had recently undergone the *puṃsavana* ceremony. Duṣyanta immediately remarks that "the child in the womb" should inherit the father's estate (*Nanu grabhaḥ pitryam riktham arhati*) and commands the decision (which gives a general rule) to be conveyed to the Minister. Duṣyanta then orders it to be proclaimed that he will be guardian to all those, who are free of inexpiable sin (*pāpādṛte*) and are deprived of near kindred, to whom the duty of protection will naturally go.

[1] See his *Catalogue of Manuscripts in the Durbar Library, Nepal*, 1905, p. x and pp. 77 and 127.

from Bṛhaspati (*inf.* p. 132) and another time (p. 357) to mention its opinion on ten days time of grace in sales by or to kinsmen. The need to give the source of these three lines of Bṛhaspati is evident. They are cited for the *first* time by Varadarāja, and the only other writers in whose works they have been traced are Mādhavācārya (ed. *Bibliotheca Indica*, III, p. 147), in which the variant *tripuruṣam* occurs for *trivarṣam* in *Vyavahāranirṇaya*, and Pratāparudra's *Sarasvatīvilāsa*, (ed. Mysore, p. 135) which gives Varadarāja's reading. He is obviously the source of the quotations in the two later works. The solitary example of giving his source of a s'loka ascribed to a well-known *smṛti*, only *confirms* the argument on p. 52 *supra*, about an alleged citation of Bṛhaspati from the *Candrikā*.[1]

The citation of *Svāyumbhuvāgama* (*inf.* p. 14) and the *Vaikhānasa Ātreya-samhitā* (pp. 195 and 210) shows Varadarāja's familiarity with a branch of literature special to S'rīvaiṣṇavas.[2] The first quotation merely gives a Vaiṣṇava classification of six *samayas* or religious cults, of which the *Pāncarātra* is one. The second quotes the weights and measures, which were apparently standardized for Viṣṇu temples. They lend support to the conclusion that Varadarāja was a S'rīvaiṣṇava.

The work of a writer named Kṛṣṇa, who was apparently a *nibandhakāra*, is quoted twice (*inf.* pp. 78 and 278). The first classes him with Dhāres'vara and Udyotana about the

[1] This is the *only* instance in which Varadarāja has indicated the secondary source of a quotation from an important smṛti. Probably Bṛhaspati's work existed only in fragments even in Varadarāja's days.

[2] *Atrisamhitā* is printed by the S'rī Venkaṭes'vara Oriental Institute at Tirupati, and the work was begun by the present editors. *Svāyumbhuva Agama* is a *Pāncarātra* work mentioned in Dr. F. O. Schrader's list as No 205 (see p. 11 of his *Introduction to the Pāñcarātra and the Ahirbudhnya Samhitā*, Adyar, 1916, p. 11. Vedānta Des'ika does not cite it in his *Pāncarātrarakṣā*. Aufrecht (*C.C.* I., 752) treats *Svāyumbhuvāgama* as a s'aiva work.

applicability of certain ordeals, in which their position was adverse to that held by Bhaṭṭa Kumāra, (Kumārila Bhaṭṭa ?) Vis'varūpa and Vijñanes'vara. The second records an opinion on sale without ownership.[1] Who this writer is we do not know. He is none of those in the comprehensive list of writers on *Dharmas'āstra* compiled by MM. P. V. Kane. In Vedānta Des'ika's *Pāñcarātra-rakṣā* a Kṛṣṇa or S'rī-Kṛṣṇa-muniḥ is quoted thrice.[2] He gives rules for *āhnika* and is supported by *S'āṇḍilyasmṛti*. It is apparent that he wrote on *Dharmas'āstra*. If Varadarāja's Kṛṣṇa is identical with Vedānta Des'ika's Kṛṣṇa-muni, the form in which Varadarāja refers to him may suggest his being a contemporary, who had not yet become a *sanyāsin*.

Certain verses summarizing ordeals are assigned to *Pūrvācāryaḥ* on pp. 210-212. They are described as *samgraha-s'lokāḥ* and are not among those quoted in other digests from the old *Smṛti-samgraha*. The same "teachers" are apparently referred to on p. 216 as *ācāryāḥ* in regard to the effects to be observed on the persons subjected to ordeals. The use of the plural might merely be honorific, and in that case the allusion will be to Varadarāja's own teacher. If, as is suggested later on, Varadarāja, the author of *Vyavahāra-nirṇaya*, is the same as Varadarāja the author of *Mīmāmsā-Nayavivekadīpikā*, the reference to *ācāryās* will then be to his own teacher, whose name was *Sudars'anācārya*, and who is

[1] Who Bhaṭṭa Kumāra is can not be decided. The form of reference makes it inapplicable to Kumārila Bhaṭṭa, who will be alluded to by a Mīmām-saka like Varadarāja by the honorific plural as *Bhaṭṭāḥ*. Mimāsakas, who were consulted, have not been able to specify any opinion of Kumārila which agrees with the view attributed here to Bhaṭṭa Kumāra. The celebrated and versatile Parās'ara Bhaṭṭa, the son of Sudars'ana (Kūrattālvān or Kūres'a), the most devoted of the disciples of Rāmānuja, is often referred to by Vaiṣṇava writers as Bhaṭṭa and Bhaṭṭācārya. He died young. Innumerable works on even secular subjects by the early S'rīvaiṣṇava scholars of the age of Rāmānuja are now lost, and this may be one of them.

[2] See pp. 2, 59-60 and 87, ed. Adyar.

perhaps the same as the author of the commentary on *S'rībhāṣya* called *S'rutaprakāsikā.*[1]

There are two allusions to a writer named *Brahmavit-pravara,* " the best of ascetics " (*inf.* pp. 253 and 270). An ascetic is termed *Brahmavit* as he " knows God." The knowledge of God is *Vijñāna. Brahmavit-pravara* can therefore be taken as a periphrastic allusion to Vijñānes'vara. In the first allusion, the reference is to an interpretation of Yājñavalkya (II, 43) on the exaction of labour from an insolvent debtor other than a Brāhmaṇa, who alone should be allowed, when he could afford it, to pay back the debt little by little. The *Mitākṣarā* interprets the significance of the mention of the Brāhmaṇa to be that the relation of a higher and lower caste is involved in the rule. Accordingly, a *Kṣatriya* owing money to a *Vais'ya* creditor, if insolvent, should not be subjected to manual labour but have the *Brāhmaṇa* privilege of repayment by instalments. Varadarāja's indication of the view of *Brahmavit-pravara* is identical with the view expressed more fully in the *Mitākṣarā.* In the second allusion, the reference is to *Brahmavit-pravara's* view that Kātyāyana's rule that if a deposit it lost through negligence of the trustee, the full value should be made good to the depositor, and if the loss is due to inadvertence (*ajñāna*) a little less than the full value should be recovered, implies that the deduction in the second case of repayment of value is a fourth (*caturthāms'am*). This is just the view of Vijñānes'vara (*vide* footnotes on the pages concerned). This form of referring to Vijñānes'vara by Varadarāja (who seems from the available evidence to have

[1] S'rīvaiṣṇavas have authentic lists of *Ācāryas* in whom the right of initiation in the sacred writings, *bhāṣya* as well as *prabandha* descended from teacher to pupil. Sudars'anācarya is in the list (See No. 31 in the Succession List of Rāmānujiya Ācāryas appended to the *Life of Rāmānujācārya* by A. Govindācārya, 1906). Varadarāja is not in the list ; he was apparently not selected for " pontifical " honours.

been a S'rivaiṣṇava) is evidence of his rising above sectarian prejudice.

Varadarāja and Bhavasvāmin

In 1929 an edition of Nārada bearing the title of *Nāradīya-Manusamhitā* was published in the Travancore Sanskrit Series, with a commentary by Bhavasvāmin. The work is not noticed, nor is the commentator by MM. P. V. Kane in his monumental *History of Dharmas'āstra*, Vol. I (1930). This text of Nārada differs materially from other known versions of the *smṛti.* The commentary makes no reference to the views of well-known digests, and rarely mentions opposing views, as is their practice. Its editor, Paṇḍit Sambasiva Sastri on a mere identity of names placed Bhavasvāmin in the 16th century, on the ground that he was the Bhavasvāmin, who was the grandfather of Rājacūḍāmaṇi Dīkṣita. The *Varadarājīya*-shows that this view is untenable and that Bhavasvāmin is an old writer. For, there are *many* passages in *Vyavahāranirṇaya*[1] which are identical in word or in sense with Bhavasvāmin's comments. It is unlikely that they were transcribed from the digest by the *bhāṣya.* It must be the other way round. In a manuscript of *Bahvṛca-smārta-prāyas'ccitta* collected by the Curator of the Travancore Sanskrit Manuscripts Department, Bhavasvāmin is grouped with ancient commentators on the *Kalpasūtra.* Mahādeva Vājapeyin in a MS. dated A.D. 1020 mentions a Bhavasvāmin as an authority. If this be the commentator, he can not be put later than c. 900 A.D. (Lakshmana Sarup, *Appendices to the Nirukta*, 1929, p. 7). In any case, he must be earlier than Varadarāja, and the *form* of

[1] See *infra* pp. 300, 304, 305, 306, 307, 323, 324, 336, 337, 379, 380, 381, 382 and 383.

his commentary suggests composition in an epoch before the great digests. It is to be noted that no other digest seems to have made as much use of Bhavasvāmin as Varadarāja's but the matter requires further scrutiny of all the explanations of Nārada verses in the commentaries and digests in the light of Bhavasvāmin's commentary.

Identity of Varadarāja

We have to look among the many authors with this name for the writer who composed not only a large digest of which only one section, *viz. Vyavahāra-nirṇaya*, has so far come to light, but other lost works also within the time limits indicated by our investigation, *viz.* A.D., 1150 to 1250. We have also to look for one from South India, and a S'rīvaiṣṇava. Among them we must seek one with an obvious mastery of *Nyāya* and *Mīmāmsa*, of which we have many proofs in the work. See for example, the discussion on *dravya-parimāṇa*, pp. 193-212 and p. 459 ff. on the disabilities of women. The latter is important, as the interpretation of *nirindriya* as applied to women in *Manusmṛti* (IX, 18) by Varadarāja is original, and was not anticipated by any previous writer. Even Medhātithi (ed. Jha, II, p. 246) takes *indriya* to be *vīrya*, *dhairya-prajñā-balādi*, and the interpretation is accepted by Buehler, who translated *nirindriya* as "destitute of strength." Kullūka makes this comment: "*indriyam*" *pramāṇam*; *dharma-pramāṇa-s'ruti-smṛti-rahitatvānna dharmajñāḥ*. Nandana follows Medhātithi. In commenting on Baudhāyana's Dharmasūtra, II, iii. 47, Govindasvāmin writes: '*Nirindriyā hyadāyādā s'ca' iti srutiḥ* ("*nirindriyāḥ*" *nirgatarasāḥ*). *Smṛticandrikā* accepts the sense of 'powerlessness' for *nirindriya*. *Sarasvativilāsa*

interprets *indriya* as *vīrya* (seed). By taking the *s'ruti* passage in which the word occurs as declaring the incompetence of women to inherit Devaṇṇa Bhaṭṭa is faced by difficulties in justifying *against s'ruti* the rights of the widow, daughter and mother ; and he tries to get over the obstacle by describing the *s'ruti* as exaggeratory and as not over-riding the rights of the *patnī* and the like, whose competence to inherit is *expressly* provided for. Varadarāja, from his knowledge of Mīmāmsa and Vedic exegesis, cuts the Gordian knot, and Mādhavācārya copies him.

Among the twenty and odd Varadarājas named by Aufrecht[1] some are ruled out by the above considerations. Varadarāja, the author of *Laghu-Kaumudī* is ruled out by his late date (after Bhaṭṭoji Dīkṣita) as well as by his father's name Durgātanayaḥ. There is the *Kusumānjali-bodhinī* a Nyāya commentary on Udayana's *Kusumāñjali*, by a Varadarāja-mis'ra the son of Rāmadeva-mis'ra. He is ruled out by being a North Indian, besides not satisfying the other requisites of the author of the *Vyavahāranirṇaya*.[2] He is identified by MM. Pandit Gopinath Kaviraj with the author of *Tārkikarakṣā*[3]. Jñanapūrṇa, author of *Laghu-dīpikā* (whom Paṇḍit Gopinath Kaviraj assigns to the 13th century) refers to the author of *Tārkikarakṣā* as having lived long ago (*purā*).[4] There remain only Varadarāja, author of *Nyāyadīpikā*, and Varadarāja, son of Rangarāja, grandson of Devarāja, and pupil of Sudars'anācārya. He is the author of the *Mīmāmsā-Nayaviveka-dīpikā*, a commentary on Bhavanātha's *Nayaviveka*, an exposition of some

[1] *Catalog. Catalog.* pp. 549-551.

[2] See MM. Gopinath Kaviraj's edn. of *Kusumānjali-bodhinī*, 1922, (Sarasvatibhavan Series), *passim*.

[3] MM. Gopinath Kaviraj regards *Tārkikarakṣā* as an earlier work of this Varadarāja-mis'ra. The *Tārkikarakṣā* is cited in *Kusumānjalibodhinī*, pp. 117-118. I was doubtful of the identity.

[4] See the *Kusumāñjalībodhinī*, Introduction, *passim*.

of the important sūtras of Jaimini according to the school of Prabhākara.[1]

In a mansucript of this work (Or. MSS. Lib. No. R. 5301) it is stated that the ancestors of this Varadarāja lived on the banks of the *Vegavatī*, the river, which runs through Viṣṇu-Kāncī. The great-grandfather of this Varadarāja is named as Praṇatārthihara of the Kiḍāmbi family of the *Ātreya-gotra*. The founder of the greatness of this Kiḍāmbi family was a direct disciple of Rāmānuja, whose name is also Praṇatārthihara, and who is known in S'rīvaisṇava history by his popular name of Kiḍāmabi Āccān. The Kiḍāmbi family lived at Kāncī. It is not open to doubt that the two Praṇatārthiharas are one and the same, and that Varadarāja, the author of the commentary on Bhavanātha's *Nayaviveka* was fourth in descent from Kiḍāmbi Āccan, the disciple of Rāmānuja, who was older (in view of the great age to which he lived)[2] than many of his *s'iṣyas*. A hundred years may be taken as a reasonable interval between Rāmānuja's disciple and his great-grandson Varadarāja. This will place the latter at the beginning of the first quarter of the thirteenth century. Varadarāja, the commentator on Bhavanātha's *Nayaviveka*, describes his teacher as a great Vedāntin, an expert in the Veda and the Upaniṣads. The description may suit Sudars'anācārya, the author of the *S'rutaprakas'ikā* commentary on Rāmānuja's *S'rī-Bhāṣya*, who is *not* ruled out because he was a very much older contemporary of Vedānta Des'ika (b. 1268 A.D.)

Only the first *pāda* of the first chapter of *Mīmāmsā-Nayaviveka-dīpikā* has been printed. In the first *pāda* of the *sixth* chapter, which is now available only in manuscript,

[1] S'rīvaiṣṇava writers are partial to the school of Prabhākara Bhavanātha deals at length with the views of Prabhākara in *Nayaviveka* and Varadarāja naturally deals with Prabhākara also in *Nayaviveka-dīpikā*.

[2] One-hundred-and-twenty years. Vedānta Des'ika lived for 101 years.

occurs a passage, which, in spirit and word, is close to a similar passage in the *Vyavahāranirṇaya.* The point under consideration is the distinction between proprietary right and independence of action. It is illustrated in the *Dīpikā* by a comment on an interpretation by S'abara-svāmin of a text of Jaimini (VI, i, 6). The author affirms that, in as much as on the authority of the Veda (*s'rutibalāt*) women are empowered to perform ceremonies, the *smṛti* passages which *seem* to deny women rights of property should be construed not as denying rights of property but only rights of independent performance of sacrificial ceremonies. In *Vyavahāranirṇaya*, Varadarāja construes texts to show that the inability of sons to divide the ancestral property, when the father is alive and not at fault (Devala) does not carry the implication of any denial of existing rights in property but only denial of the right of independent action ; for, if property arises only *after* division, an only son, who steps into the father's property, would not appear to acquire proprietary right. The authority, line of argument and the expressions, which are terse, agree so closely as to suggest a common authorship of both passages.

Though the *Vyavahāranirṇaya* does not cite Bhavanātha, the original of the *Dīpikā*, its having him in mind is reflected in the more explicit use made of Bhavanātha by *Smṛticandrikā*, which often seems to aim at going one better than the *Vyavahāranirṇaya.* Some unnecessary reflections in *Smṛticandrikā* appear to owe their presence only to this desire. An instance may be mentioned. *Smṛticandrikā* explains (in omitting any treatment of the ordeals by water and poison,) that two ordeals are not considered by it as they had gone out of use.[1] Varadarāja, who belonged to the same area and was not far

[1] *Vyavahārakāṇḍa* (ed. Mysore) p. 271 : अथ जलविषयोरुत्सन्नानुष्ठानत्वात् तद्विधिं अनाख्याय कोशविधिरुच्यते.

removed from Devaṇṇa Bhaṭṭa in point of time, describes both ordeals in detail. Writing three centuries later, Pratāpa Rudra justified his own treatment of both the omitted ordeals on the ground that in his own kingdom of Utkala the ordeal by water was still practised and the ordeal by poison was known to be in use in Magadha and in the S'ūrasena country. The remark of Devaṇṇa Bhaṭṭa is obviously aimed against a writer who had described rules as still in force that had become obsolete. Varadarāja, by his *full* treatment of the two omitted ordeals, appears to be the person girded at.

The *Dīpikā* is a Mīmāmsā work by an author who is well versed in *smṛti*; while the *Vyavahāranirṇaya* is a *smṛti* work by a Mīmāmsaka. A common authorship will explain interdependence of matter, parallelisms in expression, identity of views and omission to cite the sources of the argument. The line of reasoning in the *Dīpikā* is special to the *Vyavahāranirṇaya*. It is not taken by its rivals. In the *Dīpikā*, Varadarāja lays claim to a mastery of Mīmāmsa, Vyākaraṇa Vaidya and Jyotiṣa. The first three are evident in *Vyavahāranirṇaya*,[2] while naturally scope for the display of knowledge of astrology can be expected only in non-*vyavahāra* sections of the *Varadarājīya*, which were undoubtedly composed but have now gone out of view.

South Indian works labour under a disability by being written and preserved in scripts, which though very convenient

[1] *Sarasavatīvilāsa* (ed. Mysore), p. 200: यथोक्तं चन्द्रिकाकारेण जलविषयोः उत्सन्नानुष्ठानत्वात् तद्विधिमनाख्याय कोशविधिरुच्यत इति । उत्कलादिषु क्वचिद्देशेषु जलविधिरेव प्रामाणिकत्वेन व्यवह्रियमाणत्वात् । शूरसेन-मागधादिषु क्वचिद्देशेषु बिषविधिरेव प्रामाणिकत्वेन परिगृहीतत्वात् ॥

[2] The medical knowledge is evident in the elaborate treatment of the fourteen kinds of impotence in men (pp. 378-383 *infra*) and sexual and other defects of women, as well as his indication of the marks of manliness (p. 378 and pp. 382-3).

for use with palm leaf, are unknown outside South India. They do not have the all-India reach that Nagarī manuscripts have. Works which are not widely dispersed run a risk of loss which is very real, when the materials for their preservation are so susceptible to decay and the ravages of insects as palm-leaf. We do not now possess even a minute fraction of the rich literature which was the contribution of South Indian scholars in so many fields. This will be evident to any reader of a compendium which draws upon authorities now totally lost. The disappearance of the other writings of Varadarāja may be thus explained naturally without any attribution of the loss to sectarian animus. Wholesale absorption by later writers of the matter of earlier writings is a familiar phenomenon. Varadarāja's works should have suffered an eclipse, undeserved though it be, as much from their utilization very thoroughly by writers like Hārīta Veṅkatācārya, as from the prestige and influence which digests composed by or under the patronage of powerful kings, like the *Mādhavīya* and the *Sarasvatīvilāsa*, enjoyed during the days of Vijayanagar supremacy. With increasing indifference to Dharmaśāstra literature, and especially its Vyavahāra content, in an area coming rapidly under alien rule, the value of *nibandha* manuscripts and the inducements for their preservation and multiplication diminished, from the eighteenth century onwards. When the British Courts undertook to administer Hindu Law in accordance with indigenous works of authority, the digest of Varadarāja lost a chance of coming to its own by an erroneous idea of its modernity, as compared to its rivals. The growing neglect is reflected in an increasing corruption of manuscripts of *Vyavahāranirṇaya*, and carelessness in preserving a correct text of it. This has made the work of editing it difficult, and necessitated recourse to the

use of a large number of manuscripts gathered from different areas of the region in which it was formerly very well-known, and was widely used. It has been found that manuscripts of it, which were known to have existed in private libraries fifty years ago, have now perished. The only hope of salvage and survival is publication, which alone can save a work of wide and discriminating learning and acuteness, of considerable antiquity, that once enjoyed wide and well-merited popularity and influence, like Varadarāja's treatise on *vyavahāra*. Hindu Law as administered by British Courts, and even the judiciary of Indian states, has drifted more and more from its old moorings, and the immense mass of judicial decisions has smothered the old law as developed by generations of gifted Hindu legists. Their works have now only a historical value. Vested rights have accrued and can not be disturbed, though their roots may be traced to bad decisions. Hindu law is fast coming within the ambit of the reformer and the enthusiast for social amelioration by legislation. The loss of ulilty may not however, be an evil to our *smṛti* and *nibandha* literature, as they can now be studied for their own sake, in an atmosphere of scholarly calm, by persons free from prejudice and self-interest. The insight gained by such study of the cementing force of legal institutions which kept society from disintegration in ages of invasion, wars, alien rule, and the agressive impact of hostile cultures, will itself be no inconsiderable gain to the cause of truth.

Bangalore, K. V. RANGASWAMI
15th December 1942

ANNEXURE I

SYNOPSIS OF VYAVAHĀRANIRṆAYA

Introduction: General Features

Vyavahāranirṇaya aims at being a compendious code for study and practice. It is not for beginners or for those not trained in the technique of legal literature. Its brevity is intentional. An indication is enough for those who know. The texts, being the ultimate source of authority, are cited in logical order leading to the climax of a decision. Differences of view are rarely obtruded, except where they have become classical (see pages 78 and 135). There is no attempt at parade of learning.

Both procedure and substantive law are dealt with, as is necessary in a compendium. Under law proper both the law of crimes and civil law are dealt with. As many as 220 out of the 522 pages, forming the text of law proper, are devoted to *vyavahāramātṛkā* or procedure, including the law of evidence. The unusual fulness of the treatment of procedure was probably intended to meet the needs of an epoch in which there were many small states, the rulers of which needed to be instructed in their duties in the constitution of courts of justice and adjudication. The great kingdoms of the Dakhan and South India were already tottering to their fall by

c. A.D. 1200, and petty rulers like the Reddy chiefs were springing up and claiming independence. The steam roller of the invasion of Alā-ud-din and Mālik Kāfūr destroyed the vestiges of the remaining political supremacies and paved the way for the growth of a united Hindu kingdom in Vijayanagara which could rally to its standards all Hindus, unite them in a common front and prove the bulwark of Hinduism against the fierce onslaughts of Muslims inspired by religious frenzy as well as lust for plunder. Varadarāja suited his treatment to the needs of his times.

In the treatment of personal law, Varadarāja is relatively brief in such matters as liability for debt, partition and inheritance. The former needed a strong rule to enforce obligations, and the implementing of *Dāyabhāga* lay on village and communal organizations even more than on the state.

The procedure in criminal and civil cases is not distinguished. It will not be in small states. The space assigned to criminal law is not large. *Sāhasa* is widened to bring under it both misdemeanours and felonies. A wide discretion, and a correspondingly heavy responsibility, are vested in judges. The court can deal with any kind of crime in the manner best suited to it. Doubtless considerations of the character of the offender and his antecedents, both personal and communal, governed the sentence.

The law of evidence is lucid and carefully modelled to save the interests of justice and avoid hasty judgment. The permission of ordeals is evidence of an age of faith in divine intervention to protect the oppressed and to safeguard justice. While ordeals (divine proof) are allowed, they are hemmed in by many ceremonies and rules, whose scrupulous enforcement would largely reduce their application, and impress those on whom they are imposed with a fear of unseen agencies at

work to discover truth and punish falsehood. A capricious and liberal resort to ordeals is protected against. Considerable psychological insight is reflected in the law of evidence and the hints for its evaluation. A trial, under the rules of a Hindu code, will hardly suffer in a comparison with present-day trials, while it marks a tremendous advance upon trials even in England upto the 19th century.

The Need for Adjudication

Courts become necessary and magistrates are wanted only when offences are committed and injustice is attempted. Varadarāja prefaces his work with Nārada's account of the ideal state in Manu-Prajāpati's age, when men were all righteous and truthful, envy and hatred were non-existent, and there was no litigation or trial (p. 1). The decay of Dharma brought in *Vyavahāra*. The king was created for promulgating justice and upholding it (p. 2).

Men being what they are, a political condition is natural and necessary and a king is essential. The roots of Society are in the king (p. 524). The four orders are maintained because there is a head to the state. Where the king exists there exists Dharma, and unrighteous practices (*durācāra*) can not spring up. Kings reflect the qualities of five gods, whose manifestation they are (p. 525). The king's anger, just or unjust, burns up the subject; like Indra he conquers by his might, like Soma he gladdens the hearts of his subjects; by impartial adjudication of cases and the award of just penalties he is Vaivasvata, and like Kubera he enriches the destitute as well as the deserving (p. 525). Regal duty is comprehensively stated as *pālana* (protection) and it should be discharged only in ways blazed by the śāstras (p. 524). Within

this limit to his power, the king declares (not *makes*) law (Dharma), and he who transgresses the commands so issued by the king is a miserable sinner worthy of punishment (p. 524). The king should unhesitatingly punish all infringements of Dharma and actions contrary to the s'āstras: No offender is outside the penal jurisdiction of the king be it his father, preceptor, friend, mother, wife, sons or priest (p. 527). Punishing those who merit punishment is the real sacrifice (*kratu*) for the king. Punishment (*Daṇḍa*) like kingship is of divine creation (p. 526). A king's duty is fourfold: protection of his subjects, deference to the wise and the aged, declaration of law and decision of suits, and self-protection. A criminal may escape the punishment that a king can impose but he will not escape the punishment of Yama after death (p. 526). Infamy (*ayas'as*) and perdition (*naraka*) are the lot of the king who fails in his duty to punish those who should be punished or who punishes those who are not guilty. If an unjust decision is found to have been pronounced, the king seeks expiation by a night's starvation, the king's priest (and conscience-keeper) by three days' starvation (p. 527). A king should not try to make a revenue out of adjudication. Fines recovered from offenders should be thrown into water for Varuṇa (p. 532). He should make over to the Brahman the confiscated wealth of the person outcasted (p. 532). The value of stolen property that is not recovered should be made good by the king (p. 532). He has no rights in treasure trove (p. 533). The temptation is great to lay heavy fines on offenders, if thereby the fisc can profit. It is this that is guarded against in the Hindu state. Confiscation has its limits; even a king can not deprive a workman of his tools, a soldier of his weapons, the husbandman of his seed-grain, a woman of her dress and

ornaments and religious men of the means of their religious duties (p. 524). The king is under, not above the law.

The King and Justice

The king is the fountain, not of Dharma, but of justice which is the expression of Dharma. He is enjoined to sit and decide cases or to do so by deputy, but the ultimate responsibility for the decision, both legal and moral, lies only on him. A chief judge (*prāḍvivāka*) ordinarily presides over the court of justice, in the presence of the king or in his absence, but the decree of the court must go under the royal seal. Besides the trained judge, a tribunal has the help of assessors (*sabhya*), who should give fair opinions. Their number should not fall below three. The court should sit daily in public from a *muhūrta* after sunrise to mid-day. The court is provided with an accountant (*Gaṇaka*), a court-clerk (*Lekhaka*), well-versed in languages, process servers and guards. The Bench Clerk has also to be interpreter and expert in writings.

Constitution of Courts

When a royal citadel or capital has been formed, the first duty of the king is to establish within it a court hall (p. 5). The assessor is to judge only of fact, but he must have sufficient virtue and knowledge of law to help as *amicus curiae* (p. 7). The court of justice (*sabhā*) is of four kinds. The Supreme Court is *Sāstrita*, the stationary subordinate courts of cities and townships are *Pratiṣṭhitāḥ*, itinerant courts are *Calāḥ* and the Court which is presided over by a nominee of the king and is furnished with the royal seal is *Mudrita*.

Courts in the order of power are of four grades: clan (*kula*) courts, guild tribunals (*s'reṇi*), local courts (*gaṇa*) and the king's courts, each having jurisdiction over the one preceding.

Assessors must be qualified not only generally by knowledge and training as well as by known probity, but special assessors, suited to the nature and intricacy of the subject matter in dispute, are provided for. This is because usage, when clear and well-established, must be enforced, be it family custom, or that of caste, family, profession or country. Even criminal tribes must be governed by their own *innocent* custom (p. 11). The idea of having merchants as assessors in trade disputes, soldiers in disputes involving knowledge of martial routine, and wild tribes in matters governed by tribal usage, is to combine the judgment of the expert and the trial by one's peers. Religious fraternities, including those opposed to Brahmanism, must have their affairs decided by those conversant with their creeds and practices (p. 14). The idea that only those who have intimate local or personal knowledge of a special kind are competent to assist in adjudication of affairs requiring such knowledge is emphasized over and over again (pp. 14-18). A custom is not to be rejected or derided because it is abhorrent to you. Dislike and like are cultivated and inherited (p. 16). When the assessors transgress, in their verdicts, reason and s'āstra, then *Dharma* is overcome by *A-Dharma* (p. 17). The assessors should not overlook (*nopekṣeran*) the action of the king if he is bent upon an unrighteous decision (p. 18). Silence when he should speak out in the interests of justice, is falsehood in a *sabhya* (p. 19). Unjust *sabhyas* should be banished (p. 21). The sanctions for corrupt opinions are as severe as the rewards promised for just decisions are high and alluring.

The king, who is diligent in enforcing *Dharma* and who wields justly the rod (*Daṇḍa*) is doing a *yajña* in this world which will assure him an endless life in Paradise (p. 533). The highest goal is that of the king who eschewing evil decides suits in accordance with the principles laid down in *S'āstra* (p. 534). Appropriately Varadarāja's treatise ends with this combined adjuration and benediction.

PART I PROCEDURE AND EVIDENCE

Indictment (pp. 1-36)

The suit begins when the aggrieved party brings to the court his first information. The plaintiff or complainant is termed *Vādin*, *Arthin*, *Abhiyoktā* or *Āvedayitā*. Certain persons are disqualified to be plaintiffs; *e.g.*, outlaws and madmen. The oral information is brought on record as first information by an officer of the Court (p. 22). This is followed by a preliminary examination of the plaintiff (p. 28),[1] and in some cases the dismissal of the complaint *in limine* (p. 25). Process then issues for summoning (*Āhvāna*) the defendant through the messenger of the court (*Dūta*), and the plaintiff pays him batta (*vetana*):for the period for which he is employed in the service. When the defendant (*Prativādin*, *Pratyarthin*, *Abhiyukta*) appears in response to the summons, the plaint, after necessary amendments, is put into a proper form. The statement of the case in the plaint should be faultless, *i.e.*, it should be full and complete, assertive, state the grounds of the claim in law and in fact without prolixity, and explain laches if any. (Cf. *Civil Procedure Code*, 1908, Order VII). If the defendant does not appear on summons or is guilty of any other misconduct, he may be restrained by

[1] Cf. *Civil Procedure Code*, 1908, Order X, rule 2.

an injunction (*āsedha*) from moving from a particular pl:
or for a particular period of time, or to a particular plac
in a particular course of action (p. 30). Over and above
injunction, the court may issue an order of attachment of
movable and immovable property of the delinquent (p. :
If the injunction or order of restraint is obtained by falseh
there is the penalty of a fine (p. 32). Persons in some sit
tions are exempt from such orders; *e.g.* husbandmen w
cultivation is about to begin, minors, one under a v
(*vratī*), the distressed, a newly confined woman and a vir
of high caste (p. 33). A plaintiff under incapacity may be
presented by a next friend (p. 34). After the parties app
bonds of sureties are taken for their regular appearance in
course of the action (p. 35).

Scene of Litigation (pp. 36-80)

The trial officially begins when the defendant enters
appearance and proceeds to answer the claim. Time to st
his defence may be given for sufficient cause. In exceptio
cases, and in criminal cases, the trial takes place with
delay (p. 41). Like the plaint, the written statement of
defendant must be brief, precise, to the point and cover
entire ground (p. 46, p. 57), (Cf. *Civil Procedure Code,* Or
VIII). Pleas of denial are of four kinds: denial as fa
confession, confession and avoidance, (including dischar
and a prior judgment (*res judicata*), (p. 49). On the ple
ings the judge determines the burden of proof for
trial (p. 55). A penalty is provided for false claims a
false pleas (p. 66). There can be a compromise out of cou
and when the evidence is inconclusive, or when law confli
with equity it is the duty of the Court, as far as possible
arrange a settlement (p. 63).

If a compromise is not effected, the action proceeds to a trial (*kriyā*). The cause is determined on evidence, human or divine. Witnesses, documents and inferences come under the first category, while ordeals are divine evidence (*Daiva*) (p. 73).

Human Evidence (pp. 80-139)

Documents are of two sorts: *Rājakīya* (royal) and *Jānapada* (popular). The former is called *S'āsana* and the latter *Cīraka* (p. 82). The former bears the royal seal and the latter is drawn up by the village accountant. A debt-bond carrying interest is called *Uddāmapatra* (pp. 83-85). A court decree, signed by the judge, is called *Jayapatra*, and an award by arbitrators *Prattapatra* (p. 85). In some cases such as relate to immovable property, Kātyāyana had ordained writing to be compulsory, but Varadarāja explains that Kātyāyana meant only to indicate the superiority of written records and did not mean to exclude other kinds of evidence. In the case of lost, old or illegible documents a copy can be filed (p. 88). Where there is a doubt of the authorship of a document, a comparison can be made with other admitted writings of the presumed author, for determining the authenticity of the document (p. 90). A presumption of genuineness arises generally in the case of documents twenty years old (p. 91). It may be noted in passing that under the *Indian Evidence Act* the period is thirty years, and documents thirty years old are termed "ancient documents." Clever men are said to make forged documents that are as similar as reflections in a mirror to the originals (p. 91). Bṛhaspati has some useful hints for the detection of forged documents (p. 93). Like forged documents,

documents which are executed by idiots, the dumb, the blind, the ignorant, and those suffering from paroxysms of anger or fear or disease or who are under duress (*asvatantra*) are invalid (p. 92).

Certain persons are incompetent to give evidence or are disqualified (pp. 97-105). The types of persons whose testimony may generally be held satisfactory and those that can not are specified in detail. Witnesses must give their evidence in person, but if their evidence cannot be procured without inconvenience, the statements made by them in the presence of a learned person and attested by him may be admitted in evidence (p. 102). Not less than three witnesses are deemed necessary, but one will do if the parties agree. In criminal trials nothing is deemed a disqualification for witnesses (p. 111). Witnesses are first to be exhorted by the judge to speak truthfully on pain of divine displeasure and consignment to Hell, and they are then examined in the presence of the parties. The defendant can expose their faults (p. 112). Much attention is given to the observation of the demeanour of the witnesses, and the description of the false witness given by Nārada and Yājñavalkya (p. 70) is instructive and even entertaining. The description shows much psychological insight. Condign punishment is provided for perjury. The belief in divine agencies at work in dealing with perjurers is reflected in the belief that a witness who suffers loss, pain or bereavement within a short time of his giving evidence should be deemed a perjurer and be liable to a fine (p. 115).

The third kind of evidence is inference (*anumāna*). It is drawn from circumstances. One such circumstance is possession with enjoyment. In the case of representative possession tacking is recognized (pp. 116-119). A general warning

is given to judges that a cause must not be judged on mere precepts of law, and that the determination should be guided by common-sense and equity, as otherwise justice will fail. This is specially so in cases in which proper evidence or authority is not readily available.

Divine Proof (*Divya*) (pp. 140-217)

Faith in ordeals is based on the belief that the Divine Will when properly invoked interposes in human affairs to expose falsehood and crime. The success of the test largely depended on the psychological reaction of the person subjected to this method of proof. To this end, the formalities in regard to the place where the test is to be applied, the time of application and the manner of application are so elaborated as to make such a reaction probable. Ordeals are of nine kinds, fire, water, balance, hot metal, poison etc. (p. 140). Every ordeal is not to be made available to every person. Women, children and diseased persons are exempted from the more arduous tests (Pitāmaha on p. 145).

Humanity dictates that the application of particular ordeals in seasons which are bad, or to persons unable to stand them should be interdicted. The *smṛtis* are divided in their view of the compulsory nature of ordeals, but the general trend of digests, to which Varadarāja conforms, is not to overlook the possibility of error in this method of proof and to limit its use as far as possible. Devaṇṇa Bhaṭṭa rejected the ordeals by water and poison on the ground that they were obsolete. Varadarāja's comprehensive treatment of the method of divine proof, while stating the limitations under which it should be applied, might show the persistence of the institution.

Weights and Measures

This chapter claims to be the individual contribution of Varadarāja. With it closes the section on Procedure, forming the first part of the digest.

PART II TOPICS OF LITIGATION

The classical enumeration of the topics of litigation is eighteen (p. 45) and Varadarāja adopts it, As the number is exhaustive, all topics are brought within the eighteen.

Loans (*Ṛṇa*)

Loans may be secured or unsecured, bear interest or be without it. In some instances, even in the absence of a contract to pay interest, it will be decreed, either on demand or on the lapse of time, when the liability to repay is presumed. Interest may be in money or in kind and the rates may vary (pp. 221-231). A just rate is indicated (p. 222). Compound interest (*cakravṛddhi*) is admissible. There are four or five or six kinds of interest (p. 225). In pledges and mortgages, the creditor in possession is responsible for the safety of the mortgaged property. Rules are given for determining priority among rival claims. If the security is lost or diminishes in value, the debtor must furnish fresh security (pp. 232-238). The rule of "*damdupat*" (discharge of debt by double payment) is general in debts. Provision is made for sureties (p. 247). The renewal of debts from time to time by the addition of accruing interest is allowed (p. 254). If the debtor is unable to pay, his property may be attached and realized for the payment of the debt (p. 254). In a clear and

succinct statement the Hindu Law of liability for debt is summarized (pp. 237-264).

Bailment or Deposit (Nikṣepa)

The mutual obligations of the bailor and the bailee are described and compensation is provided for denial of the deposit (pp. 265-272). A deposit lost through acts of God or of the State does not subject the holder to liability for its return (p. 270). Where a deposit made in secret is denied, and a dispute arises thereon, recourse to divine proof is indicated (p. 272).

Sale without Ownership (pp. 273-278)

Manu treats sale without ownership as theft (p. 274). A secret sale will increase the presumption of its guilt (p. 274). The seller of real property who does not give possession to the purchaser will become liable for punishment as a thief (p. 277). The compensation awarded to the purchaser in such cases is in money or in equivalent property. Most speculative transactions of the present day will come under this caption.

Associated Dealings (Sambhūya-samutthānam)

Associated dealings range from the implied terms of the division of *dakṣiṇā* by the officiating priests at a sacrifice, to contracts of partners for performing works of various kinds like the excavation of wells, the construction of houses and temples and of musical groups, in which the *tālajña* must get a larger share than the others, and to partnerships among traders engaged in domestic and foreign trade. The enforcement of implied terms follows custom (pp. 279-286).

Gifts and their Rescission (pp. 287-292)

In an age in which much spiritual benefit was held to accrue from gifts, the giver, who yielded to an impulse, had to be protected as well as others from such gifts. In certain circumstances gifts may be revoked. Nine objects are declared as unfit to be given away and if they are gifted, the gifts are invalid. What is begged, what is held in deposit or as a pledge, wives, their property, a trust, and one's entire effects can not be given away validly (p. 288). Whether divided or united, members of a joint family have equal rights in its estate, and no single member is competent to sell or give away as a gift. Gifts are classified. Bribery (*utkoca*) is brought under this category. The receiver of bribes should be publicly disgraced by the king, and after confiscation of his entire property, he should be banished (p. 295). The absence of full freedom (*asvatantra*) of various kinds is discussed after enumeration (p. 296) as a person with an imperfect title cannot be a valid donor. He who receives what cannot be given away, and he who makes such a gift are both thieves and are punishable as such (p. 299).

Breach of Contract of Service (Abhyupetya-as'us'rūṣā)

The section deals with not only the relation of master and servant but of master-craftsman and apprentice, *guru* and *s'iṣya* and the fifteen forms of servitude or quasi-slavery. (p. 304). The forms of emancipation of slaves are described (pp. 305-6). The recantor of *sanyāsa* becomes the slave of the king (p. 301). If a master begets a child on his slave girl, she automatically becomes free along with her offspring (p. 308). A free woman marrying a slave becomes a slave as

the husband is the lord of the wife (p. 308). He who reduces a concubine to slavery, or he who lies with a wet-nurse who is a free woman as if she was his slave woman, will become liable to the penalty for felony (p. 309). A Brahman can never be a slave (p. 310). (Kauṭilya declares that no *Ārya* can be a slave.) The relation of master and serf can exist only in the order of *varṇas* and not in reverse order (p. 311). The wife and the son are unfree, and like slaves property-less (p. 312).

Disputes about Wages (pp. 312-322)

A master is bound to pay contracted wages (p. 313). Wages are due only for as much work as is done (p. 313). A servant who fails to render stipulated service can be punished (Criminal breach of contract). Breach of contract by a harlot is punishable. She must pay double the amount advanced (p. 318) unless she is unable to serve owing to disease, fatigue or engagement in the king's service (p. 318). The washerman's usual derilictions are penalized. He is fined three *paṇas* if he wears apparel given out for wash (p. 322). If he sells the clothes he is to be fined ten *paṇas.*

Disputes between Grazier and Owner (Svāmipālavāda)

The relations are of value in a primitive community, and the customary relations and reciprocal liabilities seem to have become crystallized by usage. The rules governing pasture grounds are brought within this section (pp. 326-331).

Breach of Contract or Convention (Samayānapakaraṇa)

The section relates to breaches of engagements in public institutions and societies, local or sectarian, formed for the

mutual benefit. The misappropriation of common fund comes under this head (p. 334).

Sales of Property, Special Cases

Sale without title has already been dealt with. Refusal to deliver possession of properties sold, rescission of purchases, conditional sales and pre-emption form the topics of minor sections covering pp. 336-364. In all such cases compensation is awardable. Rules are laid down for its assessment so as to include an amount based on the value of the property in litigation as well as interest based on its value.

Boundary Disputes (Sīmāvāda)

Such disputes can arise not only between private individuals but between contiguous villages. The manner in which boundaries can be distinctly marked are described. Some of the methods go back to the time of Kauṭilya. It is laid down that trees belong to the owner of the plot in which they grow (p. 374).

Law of Marital Relations

The important subject is complicated by the prevalence of intercaste *anuloma* marriages. Unions in which both parties are of the same *varṇa* are commended as the best (p. 376). The prohibited degrees of marriage for the different castes are stated. They differ for man and woman, and for each caste. The sons of stepmothers' brothers are like those of one's own maternal uncle as regards prohibited degress of union (p. 377). *Sagotra* marriages are invalid

(p. 377). The examination of a man for potency before marriage is recommended, and fourteen forms of male impotency are described, following Nārada. The exclusion of impotent men from valid matrimony is argued out on the hypothesis that women are created for begetting children (p. 382). The faults of a bride whose concealment is punishable are indicated (pp. 382-4). A description of the eight forms of marriage follows (p. 383 ff.). Marriage with a S'ūdra woman is condemned (p. 385). A girl given in marriage to a person, who has gone to a distant country, can choose another husband after three years (p. 385).

The remarriage of girls whose marriage has either not been completed or whose husbands have died either to their brothers-in-law or to to others is dealt with on pp. 386-387. As such marriages are *Kalivarjya* the detailed discussion of the problem is noteworthy, as it could not have been for mere academic purposes. If a girl, who has blemishes that interdict her marriage is given in marriage to a person after concealing her faults, he who gives her away is punishable by the king (p. 388). Censure is laid on parents and guardians who do not give a nubible girl in marriage (p. 389). The place of women in the household is lauded (p. 390). A widow's guardians are her husband's people, next her own kinsmen, and failing them the king (p. 390). *Sati*, which was practised in South India down to the seventeenth century, is dealt with as enjoined (pp. 391-2). Sati is said to be, in Varadarāja's words, equally enjoined on *all* women down to Caṇḍāḷa women as an ordinary duty, if they have no young children to take care of or if they are not *enceinte* at the time of widowhood. The circumstances in which a wife may be superseded (*adhivedanam*) are stated in p. 396. Abandoning a wife who

is faultless renders a deserting husband liable to punishment by the king (p. 397). The sale of girls in marriage is condemned (p. 398).

Offences against Women : Enticement and Rape

These are brought under *strī-saṃgrahaṇam*, pp. 398-405. Improper familiarity with a woman, not one's wife, will come under this head. Exemplary penalties are prescribed by Manu for the enticement of a married woman (p. 400). Mutilation is the penalty for sex offences classed with incest (p. 400). Sex inter-course in unnatural ways and violence even to public women are criminal offences (p. 403). The ways in which women should be safeguarded, so as to prevent their falling into evil ways, are detailed (pp. 404-5) on the principle of prevention being better than cure.

Partition and Inheritance (Dāyabhāga)

This is, from a modern standpoint, the most important section of the digest (pp. 406-477). It includes also re-union after partition. *(saṃsṛṣṭi.)* The entire section has been translated by Burnell, and a synopsis is unnecessary.

PART III : *Criminal Law* (pp. 478-522)

Six heads of criminal law forming a third of the 18 titles of law are summarily dealt with in this chapter. It includes betting and gambling, abuse, intimidation, defamation, hurt (simple and grievous), homicide, theft (in which are included dealing in stolen property and harbouring thieves), cheating, forgery and mischief of different varieties. In all

cases of hurt provocation grants exemption from liability. Betting and gambling are looked down on, and are allowed for reasons of fiscal advantage under control and monopoly, and infringements of their regulations are punishable. Mutilation is prescribed for cheating with false dice (p. 482). In abuse heinousness arises when one of a lower *varṇa* reviles one of a higher (p. 487). Removal of the tongue and banishment are penalties for one who speaks evil of the king or betrays a state secret (p. 489). The limits of allowable corporal chastisement of wives, sons, slaves, and servants are indicated (p. 495). Cruelty to animals is punishable (p. 496). The places where corporal chastisement is allowed are indicated as ten (p. 497). The Brāhmaṇa is immune from capital punishment (p. 498). He should be marked with degrading emblems suited to his offences as marks of infamy (p. 498), or be banished after having his head shaved (p. 499). Theft includes many offences brought under it arbitrarily such as use of forged documents (p. 504). Methods of catching thieves are indicated for police purposes (p. 505). When one who is robbed cries for help, not going to his assistance taints him with the same offence as the thief (p. 508). Highway robbery merits impalement (p. 508). Arson and destruction of dikes are offences of the same kind (p. 509). Witchcraft is punishable (p. 511). Profiteering, counterfeiting precious articles and cheating are punishable as theft (p. 513). It is not theft to take faggots for the sacrificial fire or grass for it, or to take a virgin, who has no ornaments and who is not already promised in marriage (p. 515). Exemptions are noted where technical theft is innocuous (pp. 515-6). In the chapter on felony, self-defence can be pleaded validly in defence of even the killing of a Brāhmaṇa (p. 519-520).

Forms of Punishment

In the concluding chapter penalties are classified as reproof, censure, with an expression of contempt, fine, whipping, branding with marks of disgrace, internment, imprisonment, confiscation of property and finally death, which is the punishment for murder. Fines in lieu of corporal punishment are allowed in many cases. Where poverty is general, this will be not a concession but an additional hardship.

Review and Appeal

A case decided on false evidence may be reopened if the false testimony is subsequently discovered (p. 521). Acts done by women or persons under duress must be declared invalid (p. 522). Every decision is subject to review if it is found later on to be based on error (*durdṛṣṭa*) or procured by fraud or perjury, or by the corruption of assessors or by the misconduct of the judge.

Conclusion

Fame and heaven are the rewards of the just king who rules in accordance with Dharma (p. 534). He needs no sacrifices who rules justly.

ANNEXURE II

COMPARATIVE STATEMENT OF AUTHORITIES CITED IN VYAVAHARAKĀṆḌAS

	MITĀKṢARĀ	SMṚTI CANDRIKĀ	VYAVAHĀRA NIRṆAYA	VYAVAHĀRA MADHAVĪYA
1.	Āpastamba	Āpastamba	Āpastamba	Āpastamba
2.	Us'anas	Us'anas	Us'anas	Us'anas
3.	Kātyāyana	Kātyāyana	Kātyāyana	Kātyāyana
4.	Gautama	Gautama	Gautama	Gautama
5.	Nārada	Nārada	Nārada	Nārada
6.	Pitāmaha	Pitāmaha	Pitāmaha (38)	Pitāmaha (66)
7.	Bṛhaspati	Bṛhaspati	Bṛhaspati	Bṛhaspati
8.	Bodhāyana	Bodhāyana	Bodhāyana	Bodhāyana
9.	Manu	Manu	Manu	Manu
10.	...	Yājñavalkya	Yājñavalkya	Yājñavalkya
11.	Vasiṣṭha	Vasiṣṭha	Vasiṣṭha	Vasiṣṭha
12.	Viṣṇu	Viṣṇu	Viṣṇu	Viṣṇu
13.	S'ankha	S'ankha	S'ankha	S'ankha
14.	Hārīta	Hārīta	Hārīta	Hārīta
15.	x	Samvarta	Samvarta	Samvarta
16.	x	S'ankha-Likhita	S'ankha-Likhita	S'ankha-Likhita
17.	x	Yama (16)	Yama (16)	Yama (4)
18.	x	Vyāsa	Vyāsa (76)	Vyāsa (52)
19.	x	Marīci	Marīci	Marīci
20.	x	Paiṭhīnisi	Paiṭhīnisi	Paiṭhīnisi
21.	x (1)	Prajāpati (22)	Prajāpati (57)	Prajāpati (18)

	Mitākṣarā	Smṛti Candrikā	Vyavahāra Nirṇaya
22.	x	Dakṣa	Dakṣa
23.	x	x	Pāraskara
24.	x	Angiras	Angiras
25.	Ṛṣyas'ringa	Ṛṣyas'ringa	Ṛṣyas'ringa
26.	x	Devala	Devala
27.	Dhāres'vara	Dhāres'vara (6)	Dhāres'vara
28.	S'rīkara	S'rīkara	S'rīkara
29.	Smrtyantara (4)	Smṛtyantara (157)	Smṛtyantara (35)
30.	...	Samgrahakāra (66)	...
31.	Laugākṣi	Laugākṣi	...
32.	...	x	Bhāradvāja (18)
33.	x	x	Ṣaṭ-trims'an-matam
34.	x	x	S'ātātapa
35.	...	...	Asahāya
36.	...	Devasvāmin	?
37.	...	Bhavanātha	...
38.	...	...	Pancādhyāyī
39.	x	Bhṛgu	...
40.	Bhāruci	...	...
41.	...	...	Agnimitra
42.	...	...	Brahmavit-pravara
43.	...	...	Bhaṭṭa-kumāri
44.	Rāddhāntiḥ	...	...
45.	x	Vis'varūpa	Vis'varūpa
46.	x	x	Vyāghrapāda
47.	x	x	Svāyumbhuvā-gama

	Mitākṣarā	Smṛti Candrikā	Vyavahāra Nirṇaya	Vyavahāra Madhavīya
48.	Utatya	...	...	...
49.	...	...	Udyotana	...
50.	...	...	Kavaṣaḥ	...
51.	...	...	Atrisamhita (Vaikhānasa)	...
52.	x	x	Kaṇvaḥ	x
53.	x	Vijñānes'varaḥ	Vijñānes'varaḥ	x
54.	...	x	Vis'vāmitra	x
55.	...	...	Dharmadroṇa	...
56.	...	...	Daṇḍaprakaraṇa	...
57.	...	...	Kṛṣṇa or Kṛṣṇīya	...
58.	...	...	Kauṭilyaḥ	...
59.	x	x	Kās'yapa	x
60.	Vṛddhamanuḥ	Vṛddhamanuḥ	Vṛddhamanuḥ	Vṛddhamanuḥ
61.	Vṛddha-yājña-valkya	Vṛ-Yājñavalkya	Vṛ-Yajña-valkya	Vṛ-Yājña-valkya
62.	Vṛddha-Vasiṣṭha	Vṛ-Vasiṣṭha	Vṛ-Vasiṣṭha	x
63.	Vṛddha-Kātyāyana	...	Vṛ-Kātyāyana	...
64.	Vṛddha-Viṣṇu	Vṛ-Viṣṇu	...	Vṛ-Viṣṇu
65.	Viṣatantra	...	...	Viṣatantra
66.	...	Aparārka	...	...
67.	...	...	Acāryāḥ Pūrvācāryāḥ	...
68.	...	...	Akhaṇḍādars'a	...
69.	Yogasūtra	...	...	...
70.	...	...	Brahmāṇḍa-purāṇa	x

x stands for citation in non-Vyavahāra sections of the work.

ANNEXURE III

NOTES ON MANUSCRIPTS OF VYAVAHĀRANIRṆAYA

1. Oriental Manuscript Library, Madras

PALM Leaf Manuscript containing 99 leaves, in jured condition, described in Triennial Catalogu 612 (A). Shelf No. 6816.

The manuscript is complete. The last five l been separated from the text and called *Dāya-d.* with a commentary. They are the original of the tr name printed with a translation by A. C. Burn manuscript referred to by the letter अ is followed this edition.

The manuscript looks old. The scribe who Nārāyaṇa Aiyangār, son of Aṇṇasvāmi Aiyangār. copied in the year *Bhava*.

2. Adyar Library, Theosophical Society, Adyar, Madras

Palm leaf manuscript in Grantha characters, be the shelf No. 20. D. 82 containing 325 leaves. several hands. Contains occasional interlineations rections in Telugu characters. The scribes, who prep manuscript, were apparently not good paṇḍits, and manuscript contains many obvious errors and repet lines. This manuscript varies much from No. 1 Quotations ascribed to one writer by No. 1 are attrib another by No. 2. No. 2 is incomplete and wants

Vyavahārapadas, *viz. Vākpāruṣya*, *Daṇḍapāruṣya*, *Steya-sāhasa* (wholly), and *Dyūta-samāhvaya* and *Prakīrṇaka* partially. It ends abruptly in the middle of a s'loka in *Prakīrṇaka*. The manuscript has 76 leaves, with separate pagination, bearing the title *Akhaṇḍādars'a*.

It is refered to as कृ in this edition.

3. Adyar Library

Palm leaf manuscript, in Grantha characters, containing 225 leaves. Shelf No. 29. I. 7. Appearance old. S'rī tāla. Referred to in this edition by the letter ख.

4. Oriental Manuscript Library, Madras

Palm leaf Manuscript containing pages 394. Complete. Grantha characters. No. 3213 in the Descriptive Catalogue, where it is described thus :

"Substance, palm-leaf. Size $15 \times 1\frac{3}{8}$ inches. Pages 394. Lines 7 a page. Character Grantha. Condition injured. Appearance old. Complete. Copying is said to have been finished in the year Viṣu on Monday the 11th of Phalguna by Ramachandra. Two leaves in the beginning are much injured."

Indication letter in this edition ग.

5. Oriental Institute, Baroda

Palm leaf manuscript in Grantha characters containing 148 leaves. Incomplete, going upto *Vākpāruṣya* only. Appearance old. Condition good. Readings often corrupt and obviously due to ignorant transcription. Several passages which are omitted in the context in which they should appear are often reproduced in parts of the work in which they have no relevance. Accn. No. 13327. Indicated here by the letter च.

6. Oriental Institute, Baroda

Palm leaf manuscript in Grantha characters, containing 43 leaves. Accn. No. 6768 ; *Granthas* 1900. Incomplete, and

going up only to *Ṛṇādāna-prakaraṇam*. Condition good Appearance old. Written in a legible and beautiful hand by one who was apparently a scholar. Free from errors. Very useful in the restoration of prose passages, which are generally badly written in the other manuscripts.

Indicated in the notes by the letter ङ.

7. Oriental Institute, Baroda

Palm leaf manuscript in *Grantha* characters, containing 150 leaves. Injured and incomplete. Appearance old. Upto *Prakīrṇa* only. Number of *Granthas* approximately 3000.

Indicated in the notes by the letter ज.

8. Library of the D. A. V. College, Lahore

Palm leaf manuscript in Telugu characters, written neatly and legibly. Condition—several leaves injured by borer insect. Appearance old. Age not less than 150 years. Incomplete. Generally agrees with the Mysore MS. described below and sometimes with Adyar Manuscript, No. 2 above. Useful in collation.

Referred to in footnotes below as ल.

9. Government Oriental Library, Mysore

Paper Manuscript in paper of foolscap size. Folia 413. Written in Telugu chracters, with 20 lines to a page. Appearance new. Stated as transcribed from a very old and much injured palm leaf Manuscript in the Library, whose condition would not permit of much handling. Several minor omissions in the text. Otherwise complete. The Accession number of the original palm leaf manuscript of which this is stated to be an exact copy is No. 3144. It has been found useful for comparison.

Indicated in the notes by the letter म.

विषयानुक्रमणी

१. व्यवहारपरिकरकाण्डम्

३. व्यवहारमातृकाकाण्डम्

क्रियापादः

४. मानुषप्रमाणकाण्डम्

५. दिव्यप्रमाणनिर्णयकाण्डम्

६. मानसंग्रहः

७. ऋणादानकाण्डम्

प्रतिभूविधिः

ऋणक्षयपरिवृत्ति:

८. निक्षेपकाण्डम्

९. अस्वामिविक्रयकाण्डम्

१०. सम्भूयसमुत्थानादिदशपदकाण्डम्

११. दायविभागकाण्डम्

१२. द्यूतसमाह्वयादि षट्पदकाण्डम्

१३. प्रकीर्णकम्

शुद्धाशुद्धम्

पृष्ठम्	पङ्क्तिः	अशुद्धम्	शुद्धम्
२	३	वीजा धर्मा	वीजाधर्मा
१८	३	स नृपाः	सनृपाः
२३	११	च प्रापितम्	चाप्रापितम्
२४	९	अधिकञ्छे	अधिकाञ्छे
२६	२	भीतादिप्रयो	भीतादियो
३१	४	द्रव्योत्पच्युपा	द्रव्योत्पत्यु
५२	६	असाध्यत्वेनान्याभावात	असाध्यत्वेन न्यग्भावात्
६३	९	न्धिरुभयो	न्धिरुभयो
६७	१३	तथोऽल्प	तथाऽल्प
७९	१४	प्रमाणाविशेष	प्रमाणविशेष
८१	१४	मामग्रीशास्त्र	सामग्री शास्त्र
८४	१२	त्येद्भग	त्येतद्भाग
८७	९	समीमतः	समीपतः
११०	६	[अत्र याज्ञ	[अत्र] याज्ञ
,,	९	कुष्ठी	कुष्ठी
११२	८	क्रियाभाव्या	क्रिया भाव्या
११३	१३	[अथ मनुः—	[अथ . . . मनुः]
१२९	१२	स्वोज्जनम्	स्वोज्झनम्
		अपरवोज्ज्ञनम्	अपरवोज्झनम्
,,	१४	ऽपरवोज्ज्ञितः	ऽपरवोज्झितः

पृष्ठम्	पङ्क्तिः	अशुद्धम्	शुद्धम्
१२९	२२	ऽपरवोज्झितः	ऽपरवोज्झितः
१३१	२०	19. 27	II, 27
१३३	१६	भोगछला	भोगच्छला
१५२	५	नारदवचनात् ॥	नारदवचनात्—
१७४	४	अमियुक्ताय	अभियुक्ताय
१८१	१०	वह्निर्जाति	वह्निर्ज्ञाति
२१५	८	राजाऽऽतङ्क	राजातङ्क
२१८	१६	ज्ञेयाः	ज्ञेया
२१९	१०	काकणिस्त्रितयं	काकणित्रितयम्
२२५	८	ग्रहात्	गृहात्
२३८	१२	स्तेनान्य	स्तेनोऽन्य
२७७	४	निष्क्रये	निष्क्रयो
२९५	१	त्र	अत्र
३०८	१३	स्वमी	स्वामी
३१४	२०	पृनरेव	पुनरेव
३१७	२७	या. मि. १९७	या. मि. II, १९७
३२७	३	चेच्छक्या	चेच्छक्त्या
३३८	२	स दोषं	सदोषं
३५२	४	त्रिभागेन	त्रिभोगेन
३५८	१०	विक्रणे कुर्यात् श्राव	विक्रयणे कुर्यात श्राव
,,	१२	स्थानन्दितान्	स्थाननिन्दितान्
३६६	८	प्रसादाव	प्रासादाव
३७५	४	चेद्या	छेद्या
३९३	१२	कर्हिता	कर्शिता
४२४	१२	सूतान्	सुतात्
४६४	४	निशेष	विशेष
४६५	८	श्वश्त्रा	श्वश्र्वा

पृष्ठम्	पङ्क्तिः	अशुद्धम्	शुद्धम्
४७५	२०	या. मि. II, १६९	या. मि. II, १३९
४७७	९	पृथक्स्थनां	पृथक्स्थानां
४९३	४	अवनिष्ठिवतो	अवनिष्ठिवतो
४९७	१६	हस्तश्च	हस्तास्य
५०७	१०	हत्वा	हृत्वा
५१०	३	गजापहायेक	गजापहार्येक
५२९	६	कण्ठौ	कर्णौ
५४२	२१	बृहस्पस्तिः	बृहस्पतिः

श्रीः

व्यवहारनिर्णयः

वरदराजकृतः

१. व्यवहारपरिकरकाण्डम्

लोके सर्वमनुष्याणां विवादे लुप्तधर्मके ।
निर्णयः क्रियतेऽस्माभि [1]र्युक्तिस्मृत्यनुरोधतः ॥

सकलविवाद[2]पदनिर्णयार्थं स्मृत्यर्थनिर्णयः क्रियते ।

तत्र **नारदः**—

मनुः प्रजापति[3]र्यस्मिन् काले राज्यमबूभुजत् ।
[4]धर्मैकतानाः पुरुषास्तदाऽऽसन् सत्यवादिनः ॥
तदा न व्यवहारोऽभून्न द्वेषो नापि मत्सरः ।
नष्टे धर्मे मनुष्येषु व्यवहारः प्रवर्तितः ॥

[1] युक्त—अ ।
[2] विवादनिर्णयार्थमिति—ख ।
[3] तिः पूर्वं—ख, ल ।
[4] धर्मप्रधानाः—अ ।

[1]द्रष्टा च तस्य न्यायस्य राजा धारयिता कृतः ।

'धर्मैकतानाः' [2]धर्मैकविस्ताराः । [3]सर्वेषां धर्मप्राधान्यात् व्यवहारहेतुभूतद्वेषमत्सरबीजा[4] धर्माभावान्नास्ति व्यवहारः । इदानीं कलियुगे कालदोषान्मनुष्याणामधर्मप्राधान्यात्, तन्निबन्धनान्यायनिवृत्त्यर्थं मन्वादिभिः शिष्टैः व्यवहाराख्यो न्यायः [5]'प्रवर्तितः' दर्शितः । तस्य न्यायस्य द्रष्टा अन्यायप्रवृत्तानां[6] [7]च दण्डस्य 'धारयिता' [8]मन्वादिभी राजा कृतः ॥

अत्र **मनुः**—

व्यवहारान् दिदृक्षुस्तु ब्राह्मणैः सह पार्थिवः ।
मन्त्रज्ञैर्मन्त्रिभिश्चैव विनीतः प्रविशेत्सभाम् ॥
तत्रासीनः स्थितो वाऽपि पाणिमुद्यम्य दक्षिणम् ।
विनीतवेषाभरणः [9]कुर्यात् कार्याणि कार्यिणाम् ॥
प्रत्यहं देशदृष्टैश्च शास्त्रदृष्टैश्च हेतुभिः ।
अष्टादशसु मार्गेषु [10]व्यवहारान् पृथक्पृथक् ॥

[1] दृष्ट्वा—क ।
[2] धर्मैकविस्तराः—म, ल ।
[3] तदानीं सर्वेषां—च, ल ।
[4] हेतुभूतमत्सर—क ।
[5] प्रदर्शितः—ख, म, ल ।
[6] वृत्तानां—क ; कारिणां-ख ; कारिणां निवर्तकः—म ।
[7] निवर्तकः—ख ।
[8] राजा मन्वादिभिः—क ।
[9] पश्येत्—क ।
[10] निबन्धानि—क ; यथोक्तानि—च ; निबद्धानि—म ।

धर्मासनमधिष्ठाय [1]संवीताङ्गः समाहितः ।
प्रणम्य लोकपालेभ्यः कार्यदर्शनमारभेत् ॥
[2]यथा नयत्यसृक्पातैर्मृगस्य मृगयुः पदम् ।
नयेत्तथानुमानेन धर्मस्य नृपतिः पदम् ॥

'आसीनः स्थितो वा' पश्येत् न शयानः । 'पाणिमुद्यम्य दक्षिणं' इति [3]उपरि वस्त्रस्योपवीतवत् धारणमुच्यते । 'हेतुभिः' प्रमाणैः देशाचारप्राप्तैः शास्त्रप्राप्तैश्च अष्टादशसु व्यवहारपदेषु शोणितलेपैर्मृगपदानुमानवत् सूक्ष्मैर्हेतुभिः व्यवहारनिर्णयः [4]कर्तव्यः ।

अत्र **याज्ञवल्क्यः**—

व्यवहारान्नृपः पश्येद्विद्वद्भिर्ब्राह्मणैः सह ।
धर्मशास्त्रानुसारेण क्रोधलोभविवर्जितः ॥
श्रुताध्ययनसंपन्ना धर्मज्ञाः सत्यवादिनः ।
राज्ञा सभासदः कार्या रिपौ मित्रे च ये समाः ॥

पूर्वश्लोकोक्तैर्ब्राह्मणैः सह त्रयो ब्राह्मणाः सभासदः कार्याः ।

तथा च **कात्यायनेन** सभासदो भेदेन दर्शिताः ।

विनीतवेषो नृपतिः सभां गत्वा समाहितः ।
आसीनः प्राङ्मुखो भूत्वा पश्येत्कार्याणि कार्यिणाम् ॥

[1] संवृताङ्गः—छ, ग; सुव्रताङ्गः—अ ।
[2] नारदः यथा—क ।
[3] एतत् वाक्यं नास्ति—च, म ।
[4] कर्तव्य इति—क, च, छ ।

स तु सभ्यैः स्थिरैर्युक्तः [1]प्रज्ञामूलैर्द्विजोत्तमैः ।
धर्मशास्त्रार्थकुशलैरर्थशास्त्रविशारदैः ॥
सप्राड्विवाकः [2]सामात्यः सब्राह्मणपुरोहितः ।
ससभ्यः प्रेक्षको राजा स्वर्गे तिष्ठति धर्मतः ॥
श्रुतिस्मृतिविरुद्धं च भूतानामहितं च यत् ।
न तत्प्रवर्तयेद्राजा प्रवृत्तं च निवर्तयेत् ॥

'सप्राड्विवाकः सामात्य' इत्यस्मिन् श्लोके सभासदः भेदेन दर्शिताः । [3]व्यवहारदर्शनकालोऽपि तेनैवोक्तः ।

दिवसस्याष्टमं भागं मुक्त्वा कालत्रयं तु यत् ।
स कालो व्यवहाराणां शास्त्रदृष्टः परः स्मृतः ॥

[4]दिवसमष्टधा कृत्वा प्रथममग्निहोत्रार्थं ब्राह्मणतृप्त्यर्थं [5]च मुक्त्वा, अनन्तरं भागत्रयं व्यवहारकाल इति ।

तथा च [6]**मनुः—**

हुत्वाऽग्नीन् ब्राह्मणानर्च्य प्रविशेत्[7]सुशुभां सभाम् ।

[1] प्राज्ञैर्मौलैर्द्विजोत्तमैः—क, म ।
[2] आसाद्य—छ ।
[3] व्यवहारकालोऽपि—क ।
[4] दिवसमष्टभागं कृत्वा प्रथमं भागं अग्निहोत्रार्थं ब्राह्मणतृप्त्यर्थं मुक्त्वा—क ।
[5] धर्मं उक्त्वा—च; ब्राह्मणसन्तर्पणानन्तरं च कृत्वा—छ ।
[6] मनुनोक्तम्—क, छ ।
[7] स शुभां—क, ग ।

[1]तत्र सभास्थानमाह **बृहस्पतिः—**

दुर्गमध्ये गृहं कुर्याज्जलवृक्षान्वितं [2]पृथक् ।
प्राग्दिशि प्राङ्मुखीं [3]तस्य कल्याणीं कल्पयेत्सभाम् ॥
[4]माल्यधूपासनोपेतां बीजरक्तसमन्विताम् ।
प्रतिमालेख्यदेवैश्च युक्तामग्न्यम्बुना तथा ॥

आदित्यचन्द्रादिदेवतायुक्तां कल्पयेदिति । 'युक्तां' लोकपालयुक्तां च कल्पयेदिति ।

[5]अत्रानुकल्पमाह **मनुः—**

यदा स्वयं न कुर्यात्तु नृपतिः कार्यदर्शनम् ।
तदा नियुञ्ज्याद्विद्वांसं [6]ब्राह्मणं कार्यदर्शने ॥
सोऽस्य कार्याणि संपश्येत्सभ्यैरेव त्रिभिर्वृतः ।
सभामेव प्रविश्याग्र्यामासीनः स्थित एव वा ॥

[7]तस्यैव प्राड्विवाक इति [8]संज्ञा ।

[1] इति—क ।
[2] पृथु—क, म ।
[3] तत्र—म ।
[4] आर्या धर्मासनोपेतां बीजरत्नसमन्विताम्—क ।
[5] तत्रा—क ।
[6] नृपतिः—क ।
[7] अस्यैव प्राड्विवाकसंज्ञा—क, ख, ग, च, छ ।
[8] संज्ञा तथा ब्राह्मणपुङ्गवश्च—क ।

[1]तथा च **बृहस्पतिः**—

विवादे पृच्छति प्रश्नं प्रतिप्रश्नं तथैव च ।
[2]प्रियपूर्वं प्राग्वदति प्राड्विवाकस्ततः स्मृतः ॥

[3]तथा च **व्यासः**—

विवादानुगतं पृष्ट्वा ससभ्यस्तं प्रयत्नतः ।
विचारयति येनासौ प्राड्विवाकस्ततः स्मृतः ॥
दान्तः कुलीनो मध्यस्थो रागद्वेषविवर्जितः ।
सोऽस्य कार्याणि संपश्येत्सभ्यैरेव त्रिभिर्वृतः ॥

याज्ञवल्क्यः—

अपश्यता कार्यवशाद्व्यवहारं नृपेण तु ।
सभ्यैः सह नियोक्तव्यः ब्राह्मणः सर्वधर्मवित् ॥

व्यासः—

जातिमात्रोपजीवी वा कामं स्याद्ब्राह्मणब्रुवः ।
[4]धर्मप्रवक्ता नृपतेर्न तु वर्णास्त्रयोऽपरे ॥

अविद्वत्क्षत्रियवैश्यविषयमिदम् ।

[5]तथैव **कात्यायनः**—

यत्र विप्रो न विद्वान् स्यात्क्षत्रियं तत्र योजयेत् ।
वैश्यं वा धर्मशास्त्रज्ञं शूद्रं यत्नेन वर्जयेत् ॥

[1] बृहस्पतिः—क ।
[2] प्रियं पूर्वं प्रवदति—च ; प्रियं कुर्वन् प्राग्वदति—छ ।
[3] व्यासः—क ।
[4] धर्मं प्रवक्ता—क ।
[5] तथाच—क, ख ।

विद्वत्क्षत्रियवैश्याभावे **मनुराह**—

जातिमात्रोपजीवी वा कामं स्याद्ब्राह्मणब्रुवः ।
धर्मप्रवक्ता नृपतेः न तु शूद्रः कथंचन ॥
[1]अमात्यमुख्यं धर्मज्ञं प्राज्ञं दान्तं कुलोद्भवम्[2] ।
स्थापयेदासने तस्मिन् खिन्नकार्ये क्षणे नृणाम् ॥

[3]**कात्यायनः—**

दान्तं कुलीनं मध्यस्थमनुद्वेगकरं स्थिरम् ।
परत्र भीरुं धर्मिष्ठमुद्युक्तं क्रोधवर्जितम् ॥

अत्र **हारीतः**—

यथा शल्यं भिषक्कायादुद्धरेद्यन्[4]तृयुक्तिभिः ।
प्राड्विवाकस्[5]ततः शल्यमुद्धरेद्व्यवहारतः ॥

[6][सभ्यलक्षणमाह] **कात्यायनः—**

अलुब्धा धनवन्तश्च धर्मज्ञाः सत्यवादिनः ।
[7]धर्मशास्त्रप्रवीणाश्च सभ्यैः कार्या नृपैर्द्विजाः ॥

[1] द्विजान् विहाय यः पश्येत्कार्याणि वृषलैः सह ।
तस्य प्रक्षुभ्यते राष्ट्रं बलं कोशश्च नश्यति ॥ बृहस्पतिः—क ।
[2] कुलोद्गतम्—मनु, मुद्रित पुस्तके पृष्ठं २९३ ।
[3] पद्यमिदं न दृश्यते—ख, ग, ज ।
[4] यन्त्रयुक्तितः—क ; उद्धरत्यत्र युक्तितः—च ; यन्त्रयुक्तिभिः—म ।
[5] तथा—म ।
[6] [ ]—क ।
[7] सर्वं—क, च ।

[1]तत्र सभालक्षणमाह **मनुः—**

यस्मिन् देशे निषीदन्ति विप्रा वेदविदस्त्रयः ।
[2]राज्ञश्च [3]प्राकृतो विद्वान् सा यज्ञसदृशी सभा ॥
'प्राकृतो [4]विद्वान्' प्राड्विवाक इत्यर्थः ।
[5]पूर्वामुखस्तूपविशेद्राजा सभ्या उदङ्मुखाः ।
गणकः पश्चिमास्यस्तु लेखको दक्षिणामुखः ॥

वसिष्ठः—

यत्पुण्यमुद्धृते विप्रे [6]म्रियमाणे जलाशये ।
तत्पुण्यं संशयारूढ्ये (ढे) व्यवहारे समुद्धृते ॥

बृहस्पतिः—

लोकवेदाङ्गधर्मज्ञाः सप्त पञ्च त्रयोऽपि वा ।
यत्रोपविष्टा [7]विप्राग्र्याः सा यज्ञसदृशी सभा ॥
[8]सत्यं देवा समासेन मनुष्यास्त्वनृतं विदुः ।
इहैव तस्य देवत्वं यस्य सत्ये स्थिता मतिः ॥

[1] इति यं ज्योतिषामयनयाजनः—च ।
[2] राजा च—क, ख ।
[3] विद्वान् ब्राह्मणांस्तान् सभासदः—म ।
[4] विद्वानिति प्राड्विवाक उच्यते— क ।
[5] पद्यद्वयं नास्ति—क, च, छ, म, ल ।
[6] क्रियमाणे—ग ।
[7] विप्राः स्युः—क ।
[8] पद्यमेतन्न दृश्यते—क ।

[1]चातुर्विध्यं सभायामाह—

प्रतिष्ठिता चला चैव [2]मुद्रिता शास्त्रिता तथा ।
चतुर्विधा सभा प्रोक्ता सभ्याश्चैव तथाविधाः ॥

तेषां व्याख्यानमाह—

प्रतिष्ठिता पुरे ग्रामे चला नामाप्रतिष्ठिता ।
मुद्रिताध्यक्षसंयुक्ता राजयुक्ता च [3]शास्त्रिता ॥
नृपोऽधिकृतसभ्याश्च स्मृतिर्गणकलेखकौ ।
हेमाग्न्यम्बु स्वपुरुषाः साधनाङ्गानि वै दश ॥
तेषां मूर्धा नृपोऽङ्गानां मुखं चाधिकृतः कृतम् [कृतः] ।
बाहू सभ्याः स्मृतिर्हस्तौ जङ्घे[4] गणकलेखकौ ॥
हेमाग्न्यम्बु दृशौ तत्र[5] पादौ स्वपुरुषस्तदा ।
दशानामपि चैतेषां कर्म प्रोक्तं पृथक्पृथक् ॥
वक्ताध्यक्षो नृपः शास्ता सभ्याः कार्यपरीक्षकाः ।
स्मृतिर्विनिर्णयं ब्रूते जयं दानं दमं तथा ॥
शपथार्थेहिरण्याग्नी तृषितक्षुब्धयोर्जलम् ।
गणको गणयेदर्थं लिखेन्न्यायं च लेखकः ॥

[1] सभायाश्चातुर्विध्यं स एवाह—क, च, छ, म ।
[2] शासिता मुद्रिता तथा—क, ख, च, छ; मुद्रिता शासिता तथा—ग ।
[3] शासिता—क, ख, ग, म ।
[4] घोणा—च ।
[5] ज्ञेयं पादौ स्वपुरुषास्तथा—क ।

[1]प्रत्यर्थिसभ्यानयनं साक्षिणां च स्वपूरुषः ।
[2]कुर्यादनर्गलो रक्षेदर्थिप्रत्यर्थिनौ [3]सदा ॥
एतद्दशाङ्गकरणं यस्यामध्यास्य पार्थिवः ।
न्यायान् पश्येत् कृतमतिः सा सभाध्वरसन्निभा ॥

गणकलेखकयोर्लक्षणं स एवाह—

पश्वाज्यऋत्विगादीनां संयोगाज्जायतेऽध्वरः ।
यथा सम्बध्यते तेन व्यवहारस्तथोच्यते ॥
यज्ञे संपूज्यते विष्णुः व्यवहारे महीपतिः ।
यजमानो जयी तत्र जितः पशुरुदाहृतः ॥
पूर्वपक्षोत्तरावाज्यं प्रज्ञा च हविरुच्यते ।
त्रयी शास्त्राणि सभ्यास्तु ऋत्विजो दक्षिणा दमः ॥
लोभद्वेषादिकं त्यक्त्वा यः कुर्यात् कार्यनिर्णयम् ।
शास्त्रोदितेन विधिना तस्य यज्ञफलं लभे(भवे)त् ॥
सत्यं देवाः समासेन मनुष्यास्त्वनृतं विदुः ।
इहैव तस्य देवत्वं यस्य सत्ये स्थिता मतिः ॥

तत्र **बृहस्पतिः**—

शब्दाभिधानतत्वज्ञौ गणनाकुशलौ शुची ।
नानालिपिज्ञौ कर्तव्यौ राज्ञा गणकलेखकौ ॥

[1] प्रसह्य—क ।
[2] कार्यात्—क ।
[3] तथा—क ; तदा—च ।

इदमपरं कर्तव्यमित्याह **कात्यायनः—**

कुलशीलवयोवृत्तवित्तवद्भिरमत्सरैः ।
वणिग्भिः स्यात् कतिपयैः [1]मूलभूतैरधिष्ठितम् ॥
धर्मासनं कुर्यादिति शेषः ।

अत्र **नारदः—**

कुलानि श्रेणयश्चैव [2]गणाश्चाधिकृतो नृपः ।
प्रतिष्ठाव्यवहाराणां [3]गुर्वेषामुत्तरोत्तरम् ॥

[4]**याज्ञवल्क्यः—**

नृपाधिकृतपूगाश्च श्रेणयोऽथ कुलानि च ।
पूर्वं पूर्वं गुरुज्ञेयं व्यवहारविधौ नृणाम् ॥

बृहस्पतिः—

[5]कीनाशः कारुकः शिल्पीकुसीदिश्रेणिनर्तकाः ।
लिङ्गिनस्तस्कराः कुर्युः स्वेन धर्मेण निर्णयम् ॥
[6][ये त्वरण्यचरास्तेषां आरण्यैः करणं भवेत् ।
सेनायां सैनिकानां तु सार्थेषु वणिजां तथा ॥

[1] कुलभूतै—च, म ।
[2] सभ्याश्चाधिकृता नृपः—क ।
[3] सर्वेषा—अ ।
[4] याज्ञवल्क्यस्य नृपेति पद्यं न दृश्यते—क, च, म ।
[5] कीनाशाः कारुकाः शिल्पि—क ।
[6] [ ]—क, छ, म, ल ।

[1]तपस्विनां तु कार्याणि त्रैविद्यैरेव कारयेत् ।
मायायोगविदां[2]श्चैव गणाश्चाधिकृता नृपाः ॥]
स्वसमयसिद्धेन धर्मेण हेतुनेत्यर्थः ।

तत्र **व्यासः**—

कार्येष्वधिकृता राज्ञां ग्रामश्रेणिगणा[3]ः कुलम् ।
गुरुस्वामी कुटुम्बी च पिता ज्येष्ठः पितामहः ॥
विवादानपि[4] पश्येयुः स्वाधीने विषये नृणाम् ।

[5]अथ नैगमानाह **कात्यायनः**—

नानापौरसमूहस्तु नैगमाख्यः प्रकीर्तितः ।
नानायुधधरा व्राताः समवेताः प्रकीर्तिताः ॥
समूहो वणिगादीनां [6]पूगः स परिकीर्तितः ।
ब्राह्मणानां समूहस्तु गण इत्युच्यते बुधैः ॥
यः [7]सौगतार्हतादीनां समूहः सङ्घ उच्यते ।
चतुष्पदां गवादीनां समूहो व्रज उच्यते ॥

[1] बृहस्पतिः—तपस्विनामिति पद्यं च नास्ति—क ।

[2] व नात्मीयं कोपकारणम्—ग ; न स्वयं कोपकारणम्—च, छ ; विदां चवमात्मीयं कोपकारणम्—ग ।

[3] गणं कुलम्—क ।

[4] भिपश्येयुः—क ।

[5] कात्यायनः—क ; नैगममाह कात्यायनः—ग ।

[6] पूगस्तु—क ।

[7] सौगतार्हतकादीनां—क, ख, ग, च, छ ।

असच्छास्त्राधिगन्तॄणां समूहः पुञ्ज उच्यते ।
[1]चण्डालश्वपचादीनां समूहो गुल्म उच्यते ॥
[2]कारुशिल्पिप्रभृतीनां निवहः श्रेणिरुच्यते ।
[3]पूगश्रेणिगणादीनां भवेयुः कार्यचिन्तकाः ॥
[4]शुचयो वेदधर्मज्ञा दक्षा दान्ताः कुलोद्भवाः ।
सर्वकार्यप्रवीणाश्चालुब्धा वृद्धा महत्तराः ॥
कर्तव्यं वचनं तेषां समूहहितवादिनाम् ।
पूगनैगमपाषण्डसङ्घानामप्ययं विधिः ॥

पाषण्डलक्षणं अभिहितं **षट्त्रिंशन्मते**—

प्रामाण्यमेव ये वेदे न वदन्ति कुदृष्टयः ।
तेषां बौद्धार्हतादीनां पाषण्डाख्या प्रकीर्त्यते ॥
[5]प्रव्रज्य वसिता ये तु पाषण्डास्ते प्रकीर्तिताः ।
[6]पौरुषेयतया वेदं प्रामाण्यं प्रवदन्ति ये ।
तेषां वैशेषिकादीनां [7]नैगमाख्या प्रकीर्त्यते ॥

[1] चण्डालेति पद्यमेकं नास्ति—ख ।

[2] कारिशिल्पिप्रभृतीनां निवासः श्रेणिरुच्यते । अत्र "पूगश्रेणि" इत्यारभ्य "अयं विधिः" इत्यन्तः पाठो न दृश्यते—क ।

[3] ग्रामश्रेणि—च ।

[4] गुरवो—च ।

[5] तथा—
प्रव्रज्यावसिता ये तु पाषण्डास्ते प्रकीर्तिताः ।
पौरुषेयतया वेदं प्रमाणं प्रवदन्ति ये ॥—च, छ ।

[6] पौरुषेयतया वेदं प्रमाणं प्रवदन्ति ये ।
तेषां बौद्धार्हतादीनां नैगमाख्या प्रकीर्त्यते ॥—ग, च, छ, ल ।

[7] नैगमाख्याः प्रकीर्तिताः—क ।

[1]**कात्यायनेना**न्यथा नैगमाख्या प्रदर्शिता—

नानापौरसमाजस्तु नैगमाख्यः प्रकीर्तितः ।

इति ।

तथा **स्वायम्भुवागमे** षट् समया उक्ताः—

[2]बौद्धं चैवार्हतं चैव शैवं पाशुपतं तथा ।
कापालं पाञ्चरात्रं च षडेते समयाः स्मृताः ॥

[3]तत्र **व्यासः**—

वणिक्शिल्पिप्रभृतिषु कृषिरङ्गोपजीविषु ।
अशक्यो निर्णयो ह्यन्यैस्तज्ज्ञैरेव तु कारयेत् ॥

एतदुक्तं भवति । सर्वेषु समयेषु शास्त्रोक्तमार्गेण स्वसमयेन वा, निर्णितो व्यवहारः सिद्ध्यतीति । [4]तत्रोत्तरोत्तरः पूर्वपूर्वस्माद्गुरुः । अत आनृपात्पुनर्दर्शनं युज्यते । नृपेण दृष्टे व्यवहारे तत उत्तरस्याभावात् पुनः प्रसङ्गो नास्ति ।

[1] कात्यायनेनेत्यारभ्य तथेति पर्यन्तं न दृश्यते--क ।

[2] बौद्धमार्हतकं चैव—क, च, छ ; बौद्धमप्यार्हतं चैव—ख, ग ।

[3] कात्यायनः—

ग्रामश्रेणिगणादीनां भवेयुः कार्यचिन्तकाः ।
शुचयो वेदधर्मज्ञा दक्षा दान्ताः कुलोद्भवाः ॥
धर्मकार्यप्रवीणाश्चालुब्धा वृद्धा महत्तराः ।
कर्तव्यं वचनं तेषां समूहहितवादिनाम् ॥
पूगनैगमपाषण्डसङ्घानामप्ययं विधिः ।—क ।

[4] तत्रोत्तरोत्तरं पूर्वस्मात्पूर्वस्माद्गुरु—क, च, छ, म, ल ।

तथा च **पितामहः**—

कुलादिभिः कृतं कार्यं विचार्यं तद्यथोत्तरम् ।
असन्तुष्टस्य कर्तव्यं यावद्राज्ञा[1] कृतं भवेत् ॥

[2]तत्र **गौतमः**—

तत्र व्यवहारो वेदो धर्मशास्त्राण्यङ्गानि उपवेदाः पुराणम् । देशजातिकुलधर्माश्च आम्नायैरविरुद्धाः प्रमाणम् । कर्षकवणिक्[3]पशुपालकुसीदकारवः स्वे स्वे वर्गे । तेभ्यो यथाधिकारमर्थान् प्रत्यवहृत्य धर्मव्यवस्था ॥

[4]**स्मृत्यन्तरे**—

जातिजानपदान् धर्मान् श्रेणिधर्मांश्च शाश्वतान् ।
समीक्ष्य कुलधर्मांश्च स्वधर्मं प्रतिपालयेत् ॥
सद्भिराचरितं यत्स्यात् [5]धार्मिकैश्च द्विजातिभिः ।
तद्देशकुलजातीनामविरुद्धं प्रकल्पयेत् ॥

कात्यायनः—

[6]गोत्रस्थितिस्तु या येषां क्रमायाता च धर्मतः ।
कुलधर्मं तु तं प्राहुः पालयेत्तं तथैव तु ॥

[1] राजकृतं—क, ख, ग, च, छ ।
[2] अत्र गौतमः—देशजाति—क ।
[3] पाशुपाल्य—छ ।
[4] स्मृत्यन्तरे इत्येतत्परं न दृश्यते—क ।
[5] सात्विकैश्च—च ।
[6] गोत्रेति पद्यं न दृश्यते—क; कात्यायनः—गोत्रस्थितिस्तु—ख, ग ।

[1]यस्य देशस्य यो धर्मः प्रवृत्तः सार्वकालिकः ।
श्रुतिस्मृ[2]त्यविरोधेन देशदृ[3]ष्टः स उच्यते ॥

बृहस्पतिः—

उद्धृते दाक्षिणात्यैर्मातुलस्य सुता द्विजैः ।
मध्यदेशे कर्मकराः शिल्पिनश्च गवाशिनः ॥
मत्स्यादाश्च नराः पूर्वे व्यभिचाररताः स्त्रियः ।
उत्तरे मद्यपा नार्यः स्पृश्या नृणां रजस्वलाः ॥
खषजाः प्रतिगृह्णन्ति भ्रातृभार्यामभर्तृकाम् ।
अनेन कर्मणा नैते प्रायश्चित्तदमार्हकाः ॥

कात्यायनः—

[4]प्रातिलोम्ये प्रसूतानां तथा दुर्गनिवासिनाम् ।
वर्णानां [5]नियतं धर्मं न्यायोपेतं न चालयेत् ॥

[6][अथ कार्यनिर्णये अनियोज्यानाह] **व्यासः—**

[7]द्विजान् विहाय यः पश्येत् कार्याणि वृषलैः सह ।
तस्य प्रक्षुभ्यते [8]राष्ट्रं बलं कोशश्च नश्यति ॥

[1] कात्यायनः—क ।
[2] स्मृत्यनु—क ।
[3] धर्मः—क ।
[4] प्रातिलोम्य—क, च, छ ।
[5] क्रियतां—अ ।
[6] [ ]—छ ; अत्र—अ ।
[7] विनिर्णयाय—छ ।
[8] राज्यं—ग ।

देशाचारानभिज्ञा ये नास्तिकाः शास्त्रवर्जिताः ।
[1]उन्मत्ताः [2]क्रुद्धबालाश्च न नियोज्या विनिर्णये ॥
धर्मो विद्धस्त्वधर्मेण सभां यत्रोपतिष्ठति ।
शल्यं चास्य न कृन्तन्ति विद्धास्तत्र सभासदः ॥
सभा वा न प्रवेष्टव्या वक्तव्यं वा समञ्जसम् ।
अब्रुवन् विब्रुवन्वापि नरो भवति किल्बिषी ॥
एक एव सुहृद्धर्मो निधनेऽप्यनुयाति यः ।
शरीरेण समं नाशं सर्वमन्यद्धि गच्छति ॥
पादो धर्मस्य कर्तारं [3]पादः साक्षिणमृच्छति ।
पादः सभासदः सर्वान् पादो राजानमृच्छति ॥

मनुः—

[4]राजा भवत्यनेनास्तु मुच्यन्ते च सभासदः ।
एनो गच्छति कर्तारं निन्दार्हो यत्र निन्द्यते ॥
[5]न्यायशास्त्रमतिक्रम्य सभ्यैर्यत्र तु निश्चितः ।
तत्र धर्मो ह्यधर्मेण हतो हन्ति [6]न संशयः ॥

[1] उन्मत्तक्रुद्धबालाश्च—ख ।
[2] क्षुद्र—क ।
[3] पादो गच्छति साक्षिणम्—क ।
[4] पद्यमिदं नास्ति—क ।
[5] न्यायं—क ।
[6] नराधिपम्—क ।

[1]**कात्यायनः**—

अधर्मतः प्रवृत्तं तु नोपेक्षेरन् सभासदः ।
उपेक्षमाणाः स नृपाः नरकं यान्त्यधोमुखाः ॥
न्यायमार्गादपेतं तु ज्ञात्वा चित्तं महीपतेः ।
वक्तव्यं तत्प्रियं तत्र न सभ्यैः किल्बिषी भवेत् ॥

अत्र [2][व्यवहारनिर्णये क्रममाह] **नारदः**—

तत्र धर्मासनं प्राप्य राजा विगतमत्सरः ।
समः स्यात्सर्वभूतेषु बिभ्रद्वैवस्वतं व्रतम् ॥
धर्मशास्त्रं पुरस्कृत्य प्राड्विवाकमते स्थितः ।
समाहितमतिः पश्येत् व्यवहाराननुक्रमात् ॥
धर्मशास्त्रार्थशास्त्राभ्यामविरोधेन पार्थिवः ।
समीक्ष्यमाणो [3]निपुणं व्यवहारगतिं[4] नयेत् ॥
यथा मृगस्य विद्धस्य व्याधो मृगपदं नयेत् ।
कक्षे शोणितलेपेन[5] तथा [6]धर्मपदं नयेत् ॥

[1] कात्यायनः, तदीयत्वेनोपन्यस्तौ "अधर्मत" इत्यादि श्लोकद्वयं च, न दृश्येते—क, च, छ, म ।

[2] [ ]—छ ।

[3] निपुणां—अ ।

[4] गतीर्घनाः—इति अनन्तशयनमुद्रितनारदीयमनुसंहितायाम , पृष्ठं ७ ।

[5] लेशेन—इति अनन्तशयनमुद्रितनारदीयमनुसंहितायाम् , पृष्ठं ७ ।

[6] धर्मगतिं—क, छ, म, ल ; कर्मपदं—च ।

[1][**बृहस्पतिः**—

न्यायमार्गादपेतं तु ज्ञात्वा चित्तं महीपतेः ।
वक्तव्यं तत्प्रियं तत्र न सभ्यस्तत्र किल्बिषी ॥
अधर्मतः प्रवृत्तं तु नोपेक्षेरन् सभासदः ।
उपेक्षमाणाः सततं नरकं यान्त्यधोमुखाः ॥
प्राड्विवाकसदस्यानामुपजीव्यमतानि तु ।
तद्युक्तियोगाद्योऽर्थेषु निर्णये न स दण्डभाक् ॥]

असभ्यलक्षणमाह **नारदः**—

रागादज्ञानतो वाऽपि लोभाद्वा योऽन्यथा वदेत् ।
सभ्योऽसभ्यः स विज्ञेयः तं पापं विनयेद्भृशम् ॥
यत्र सभ्याः सभां प्राप्य तूष्णीं ध्यायन्त आसते ।
यथाप्राप्तं च न ब्रूयुः सर्वे तेऽनृतवादिनः ॥

[2][असत्यदण्डमाह] **याज्ञवल्क्यः**—

रागाल्लोभाद्भयाद्वापि स्मृत्यपेतादिकारिणः ।
सभ्याः पृथक्पृथग्दण्ड्या विवादाद्द्विगुणं दमम् ॥

यादृशाः पुनः सभासदः कर्तव्याः,

तान् दर्शयति **नारदः**—

राजा तु धार्मिकान् सभ्यान्नियुञ्ज्यात्सुपरीक्षितान् ।
व्यवहारधुरं वोढुं ये शक्ताः सद्गवा इव ॥

[1] क, छ ।
[2] [   ]—छ ।

धर्मशास्त्रार्थकुशलाः कुलीनाः सत्यवादिनः ।
समाः शत्रौ च मित्रे च नृपतेः स्युः सभासदः ॥

[1][**कात्यायनः**—

एकं शास्त्रमधीयानो न विद्यात्कार्यनिर्णयम् ।
तस्माद्बह्वागमः कार्यो विवादेषूत्तमो नृपैः ॥

नारदः]—

नानियुक्तेन वक्तव्यं [2]व्यवहारेषु किंचन ।
नियुक्तेन तु वक्तव्यमपक्षपतितं वचः ॥

[3][**कात्यायनः**—

अनिर्दिष्टाश्च ये कुर्युः व्यवहारविनिर्णयम् ।
राजवृत्ते प्रवृत्ता ये तेषां दण्डं प्रकल्पयेत् ॥]

नारदः—

[4]नियुक्तो वाऽनियुक्तो वा शास्त्रज्ञो वक्तुमर्हति ।
देवीं वाचं स वदति यः शास्त्रमुपजीवति ॥

अन्यत्र—

न सा सभा यत्र न सन्ति वृद्धाः
न ते वृद्धा ये न वदन्ति धर्मम् ।
नासौ धर्मो यत्र न सत्यमस्ति
न तत्सत्यं यच्छलेनानुविद्धम् ॥

[1] [ ]—क, छ, ल ।
[2] व्यवहारे कथंचन—क ।
[3] [ ]—क, छ, ल ।
[4] पद्यमिदं नास्ति—क, म ।

[1]अथ प्राड्विवाकतत्सभ्यानां च दण्डमाह—

बृहस्पतिः—

अन्यायवादिनः सभ्यास्तथैवोत्कोचजीविनः ।
[2]विश्वासवञ्चकाश्चैव निर्वास्याः सर्व एव ते ॥

[3]**कात्यायनः—**

[4]अनिर्णीतेऽपि यद्यर्थे संभाषेत रहोऽर्थिना ।
प्राड्विवाकोऽथ दण्ड्यः स्यात्सभ्याश्चैव न संशयः ॥

तत्र रागद्वेषवियुक्तैः, निरूपणकुशलैः, [5]ब्राह्मणैर्मन्त्रज्ञैर्मन्त्रिभिः, समृद्धैर्वणिग्भिः, [6]पुरोहितेन, सभ्यैः सभायां परिवृतो राजा प्राड्विवाको वाऽपि, व्यवहारदर्शनमारभेतेति ॥

[7]इति श्रीमद्वरदराजीये व्यवहारनिर्णये [8]व्यवहारपरिकरकाण्डं समाप्तम् ।

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[1] बृहस्पतिः— क ; प्राड्विवाकसभ्यानां दण्डमाह बृहस्पतिः— ख ।
[2] विश्वस्त— क, च, छ, ज ।
[3] कात्यायनः इति पदं नास्ति— क ।
[4] अनिर्णयेऽपि— अ ; अनिर्णीते तु— ख, ग ।
[5] सभ्यैर्मन्त्रज्ञैर्ब्राह्मणैः, वणिग्भिः, मन्त्रिभिः, पुरोहितेन च, सभायां परिवृतो राजा प्राड्विवाको वा सभ्यैर्ब्राह्मणैर्वणिग्भिश्च परिवृतः, सभायां व्यवहारदर्शन-मारभेत— क, छ ।
[6] पुरोहितैश्च— ख ।
[7] इति वरदराजीये व्यवहारनिर्णये व्यवहारकाण्डं समाप्तम्— क ।
[8] व्यवहारपरिकरसङ्गतिकाण्डः समाप्तः— छ ।

२. आवेदनकाण्डम्

अथ व्यवहारलक्षणमाह **कात्यायनः**—

[1]प्रयत्नसाध्ये विच्छिन्ने धर्माख्ये न्यायविस्तरे ।
साध्यमूलस्तु यो वादो व्यवहारः स उच्यते ॥

तत्र व्यवहारशब्दनिर्वचनं **कात्यायन** आह—

विनानार्थेऽवसन्देहे हरणं हार उच्यते ।
नानासन्देहहरणात् व्यवहार इति स्मृतः ॥

नारदः—

आगमः प्रथमं कार्यो व्यवहारपदं ततः ।
विचारो निर्णयश्चेति दर्शनं स्याच्चतुर्विधम् ॥

[2]'आगमो 'ऽर्थिवचनश्रवणम् । ततः प्रतिज्ञोत्तरप्र[3]माणानां विचारः । ततः प्रमाणतो जयावधारणमिति क्रमः ।

[1] पद्यमिदं न दृश्यते—क, च, छ, म ।
[2] वाक्यमिदं नास्ति—क, च, छ, ल ।
[3] प्रमाणानां—ख; प्रतिज्ञोत्तरं प्रमाणानां—ग ।

तत्र व्यवहारमातृकायामावेदनं **याज्ञवल्क्य** आह—

स्मृत्याचारव्यपेतेन मार्गेणाधर्षितः परैः ।
आवेदयति चेद्राज्ञे व्यवहारपदं हि तत् ॥

अन्यायमार्गेण परैः 'आधर्षितो' विमर्दितः, सभां प्राप्तः, राज्ञा प्राड्विवाकेन वा पृष्टः, कार्यार्थी यत् 'आवेदयति' [1]तदेवास्य व्यवहारस्यास्पदम्। 'आवेदयति चेत्' इति स्वयमेवागतस्य कार्यदर्शनं कर्तव्यम्। न पुनर्दण्डदेशब[2]न्धादिलोभेन राज्ञा प्राड्विवाकेन वा कार्यमुत्पाद्य [3]प्रवर्त्यमित्युक्तं भवति ।

तथा च **मनुः**—

नोत्पादयेत्स्वयं कार्यं राजा नाप्यस्य पूरुषः ।
न च प्रापितमन्येन [4]ग्रसेदर्थं कथं च न ॥

[5]'अप्रापितं' अनावेदितम् । 'ग्रसेत्' स्वीकुर्यात् । आवेदनकाले [6]यदावेदितं न्यूनमधिकं [7]तद्भूमौ फलकादौ वा लेखनीयम् ॥

[1] तदेवास्य नास्ति—क ।
[2] बन्धरतिलोभेन—क ।
[3] प्रवर्तित इत्युक्तं—ख ; प्रवर्त्यत इत्युक्तं—ग ।
[4] ग्रसेतार्थं—क ।
[5] अप्रापितमित्यारभ्य कुर्यादित्यन्तं नास्ति—क ।
[6] यथावेदितमन्यूनमनधिकमपि—क ।
[7] कारणं वदेत्—क ; तथा भूमौ—ख ।

कात्यायनः—

रागादिना यदेकेन कोपितः [1]करणे वदेत् ।
तदोमिति लिखेत् पूर्वं वादिनं फलकादिषु ॥

[2]'करणे' निरूपणस्थाने ।

तथा च **बृहस्पतिः**—

पूर्वपक्षं स्वभावोक्तं प्राड्विवाको [3]हि लेखयेत् ।
[4]पाण्डुलेख्येन फलके ततः पत्रे विशोधितम् ॥

कात्यायनः—

[5]अधिकञ्छेदयेदर्थान् न्यूनांश्च परिपूरयेत् ।
भूमौ निवेशयेत्तावत् यावत्सोऽर्थो न निश्चितः ॥

[6]आवेदनप्रकारमाह **प्रजापतिः**—

निरवद्यं सप्रतिज्ञं प्रमाणागमसंयुतम् ।
अल्पाक्षरं प्रभूतार्थं निस्सन्दिग्धं निराकुलम् ॥
आवेदये[7]द्विवादार्थी परेणान्यायपीडितः ।

[1] तदेव विलिखेत्सर्वं वादितः फलकादिषु—क, च, छ ज ।
[2] एतद्वाक्यं न दृश्यते--क ।
[3] प्राड्विवोकोऽभिलेखयेत्—ख ।
[4] प्राड्विवाकेन—क ।
[5] नाधिकान्नासमान्न्यूनानर्थांश्च परिपूरयेत् ।
ब्रुवता निवेशयेत्तावत् यावत्सार्थो न निश्चितः ॥—च ।
[6] निवेदन—ख, ग ।
[7] विवादार्थं—अ ।

चिरकालोत्सृष्टेष्वावेदनप्रकारं **पितामह** आह—

क्षमाकारणमादौ तु सोपपत्तिर्वदन्[1]नरः ।
आवेदयेद्विवादार्थी[2] सत्यं जल्पविवर्जितम् ॥

[3][**कात्यायनः**—

सशस्त्रोऽनुत्तरीयश्च मुक्तकक्ष्यः सहासनः ।
वामहस्तेन वा वादं वदन् दण्डमवाप्नुयात् ॥]

आवेदनानन्तरकालमभियोगात्प्राक् सभ्यैर्विना सन्धौ कृते, अभियोगानुरूपेण दण्डमाह-—

[4]**बृहस्पतिः**—

आवेद्य [5]तु गृहीतेऽर्थे प्रशमं यान्ति ये मिथः ।
अभियोगानुरूपेण तेषां दण्डं प्रकल्पयेत् ॥

तत्रावेदनान्तरं तस्यार्थस्य न्यायत्वे व्यवहारदर्शनं कार्यम् । अन्याय्यं चेत्परित्याज्यमेव ।

अत्र **प्रजापतिः**—

पतितादिकृतश्चैव यश्च न प्रकृतिं गतः ।
अस्वतन्त्रकृतश्चैव पूर्वपक्षो न सिद्ध्यति ॥

[1] पदं नर—ख ।
[2] विवादार्थं—अ ।
[3] [ ]—क, च, छ ।
[4] प्रजापतिः—ख ।
[5] नु—क ।

ऋश्यशृङ्गयाज्ञवल्क्यौ—

मत्तोन्मत्तार्त[1]व्यसनिबालभीता[2]दिप्रयोजितः ।
असम्बद्धकृतश्चैव व्यवहारो न सिद्ध्यति ॥

नारदः—

गुरुशिष्यौ पितापुत्रौ दम्पती स्वामिभृत्यकौ ।
एतेषां समवेतानां व्यवहारो न सिद्ध्यति ॥

कात्यायनः—

विरुद्धं चाविरुद्धं च द्वावप्यर्थौ निवेदितौ ।
एकस्मिन्यत्र दृश्येते [3]तं पक्षं दूरतस्त्यजेत् ॥

[4][अनादेयवादस्य लक्षणमाह] **नारदः**—

एकस्य बहुभिः सार्धं स्त्रीणां [5]प्रेष्यजनस्य च ।
अनादेयो भवेद्वादो धर्मविद्भिरुदाहृतः ॥

[6][**बृहस्पतिः**—

राज्ञा विसर्जितो यस्तु यश्च पौरविरोधकृत् ।
राष्ट्रस्य वा समस्तस्य प्रकृतीनां तथैव च ॥

[1] आर्ति—क, छ ।
[2] भीतप्रयोजितः—अ, ग ।
[3] तत्पक्षं—क ।
[4] [ ]—छ ।
[5] प्रेष्यजनैस्तथा—क ।
[6] [ ]—क, छ, ल ।

अथो जनपदग्राममहाजनविरोधकृत् ।
अनादेयास्तु ते सर्वे व्यवहाराः प्रकीर्तिताः ॥]

पुनः **नारदः**—

यद्बालः कुरुते कार्यमस्वतन्त्रः तथैव च ।
अकृतं [1]तदिह प्राहुः [2]शास्त्रैः शास्त्रविदो जनाः ॥
'एकस्य बहुभिः' इति भिन्नहेतुर्विवादो निराक्रियते ।

[3][असाध्यपक्षमाह] **कात्यायनः**—

अप्रसिद्धं निराबाधं निरर्थं निष्प्रयोजनम् ।
असाध्यं वा विरुद्धं वा पक्षं राजा विवर्जयेत् ॥

स्वयमेव व्याख्यानमाह—

न केनचित् कृतो यस्तु सोऽप्रसिद्ध उदाहृतः ।
अन्यार्थश्चार्थहीनश्च निराबाधः प्रकीर्तितः ॥
अल्पापराधश्चाल्पार्थो निरर्थक इति स्मृतः ।
[4]कार्याबाधविहीनस्तु विज्ञेयो निष्प्रयोजनः ॥
असंभाव्यम[5]सिद्धं तत् पक्षमाहुर्मनीषिणः ।
यस्मिन्नावेदिते पक्षे प्राड्विवाकेऽथ राजनि ॥
पुरे ग्रामे विरोधः स्यात् विरुद्धः सोऽभिधीयते ।

[1] तदिति—क, ख, ग ।
[2] शास्त्रे—ग ।
[3] [ ]—छ ।
[4] कार्यबाध—क ।
[5] असाध्यं तु—क ।

उदाहरणम्—'[1]न केनचित्कृतो' मदीयमिदं वस्त्रमनेन भक्षितमिति। '[2]अन्यार्थश्च' अनेन देवदत्तेनापकृतमिति। [3]'अर्थहीनः' मदीयो दीपो देवदत्तगृहं प्रकाशयति। 'अल्पापराधः' अहमनेन क्षणं सस्मितं [4]निरीक्षितः। 'अल्पार्थः' मदीयव्रीहिबीजमनेनापहृत[5]मिति। '[6]कार्याबाधविहीनो' मदीययज्ञावभृथेऽनेन स्नातमिति। 'असंभाव्यं' खपुष्पमनेनापहृतमिति। एवं भूतार्थप्रतिपादकवाक्यमसाध्यं, साधनासंभवादनादेयमिति। यस्मिन्नर्थ उक्ते [7]राज्ञि प्राड्विवाके वा विरोधः, "आत्मार्थे पृथिवीं त्यजेत्" इति न्यायात् सोऽपि त्याज्यः। [8]तथा पुरराष्ट्र[9]ग्रामविरोधे "ग्रामस्यार्थे कुलं त्यजेत्" इति न्यायात् सोऽपि त्याज्यः। एवमुक्तदोषरहिते आवेदने कृते एवं कर्तव्यमिति[10] **कात्यायन** आह।

काले कार्यार्थिनं पृच्छेत् प्रणतं पुरतः स्थितम्।
किं कार्यं का च ते पीडा मा भैषीर्ब्रूहि मानव॥
[11]केन कस्मिन् कदा कस्मात् पृच्छेदेवं समागतम्।
एवं पृष्टः स यद्ब्रूयात् तत्सभ्यैर्ब्राह्मणैः सह॥

[1] न केनचित्कृत इत्यत्र मदीयं वस्त्रं—क।
[2] अस्यार्थः—क।
[3] अर्थहीनं—क।
[4] दृष्ट इति—क।
[5] तमिति, एवं भूतार्थप्रतिपादक—ख।
[6] कार्यश्चार्थविहीनं—क।
[7] प्राड्विवाके राजनि वा—क।
[8] 'तथा' इत्यारभ्य 'त्याज्य' इत्यन्तं नास्ति—ख।
[9] राष्ट्रेति नास्ति—क।
[10] इत्याह कात्यायनः—क।
[11] केनेत्यर्धं न दृश्यते—क, ख, ग।

विमृश्य कार्यं न्याय्यं चेदाह्वानार्थमतः परम् ।
मुद्रां दद्यात्तथा पत्रं पुरुषं वा समादिशेत् ॥
आहूतस्त्ववमन्येत यः शक्तो राजशासनम् ।
अभियोगानुरूपेण तस्य दण्डं प्रकल्पयेत् ॥
हीने कर्मणि पञ्चाशन्मध्यमे द्विशतावरः ।
गुरुकार्ये च [1]दण्ड्यः स्यान्नित्यं पञ्चशतावरः ॥

एवं व्याख्यातृभिरुक्तमिदमुपलक्षणं, दण्डपणतारतम्यस्य । तत्र सकृदनागमने तृतीयांशो दण्डः । द्विरनागमनेऽर्धम्[2] । त्रिरनागमने पूर्णम् । एवं दण्डमादाय त्रिंशद्रात्रादूर्ध्वं त्रिपक्षाद्द्वादश[3]बन्धार्थं गृहीत्वा हानिनिमित्त-जयपत्रं दद्यात् । एवं कृते यदि प्रतिवाद्यागच्छति, पुनरपि व्यवहार-दर्शनं कर्तव्यमिति । तत्र [4]त्रैरात्रे सूत्रे विशेषः । [5]त्रिरात्रागमने चतुरो दण्ड्यः । पलायने चैवं, पराजये चतुरः कार्षापणानि[6]त्यल्पद्रव्यावेदनविषयम् । एवंविधे हानि जयपत्रविषये यावत्कार्यसिद्धिस्तावन्तं कालं दूताय वेतनमा[7]-ह्वाता दद्यादित्याह—

एकाहं द्व्यहं त्र्यहं वा देशकालाद्यपेक्षया ।
दूताय साधिते कार्ये नेता भक्तं प्रकल्पयेत् ॥

[1] दण्डः—ख ।
[2] त्वर्धम्—क ।
[3] बन्धं—क ।
[4] त्रैराज्यसूत्रे—म, ल ।
[5] त्रिरनागमे—क ; त्रिरागमने—ग ।
[6] नीति—क, ख, ग ।
[7] आहरन्वा—क ।

'नेता' आह्वाता। तत्र मुद्राभिराहूतो यदि [1]नागच्छेत् तदा यावद्व्यवहारनिर्णयमासेधयेदित्याह—

नारदः—

वक्तव्येऽर्थे [2]न तिष्ठन्तमुत्क्रामन्तं च तद्वचः।
आसेधयेद्विवादार्थी यावदाह्वानदर्शनम्॥

'वक्तव्येऽर्थे' सन्दिग्धेऽर्थे निर्णयार्थं न प्रवर्तमानं न केवलं न प्रवर्तते। 'उत्क्रामन्तं च तद्वचः' मा गा इति वार्यमाणो न तिष्ठेत्, तं 'आसेधयेत्'। मर्यादायां 'यावत्' इत्यवधिपरिच्छेदः। आहूयतेऽस्मिन्निति 'आह्वानं' व्यवहारः। अतो यावद्व्यवहारदर्शनमासेधः कर्तव्यः। तत्रासेधश्चतुर्विध इत्याह—

स्थानासेधः कालकृतः [3]प्रवासात्कर्मणस्तथा।
चतुर्विधः स्यादासेधः तमासिद्धो न लङ्घयेत्॥

नास्मात् स्थानात् चलितव्यमिति 'स्थानासेधः'। [4]'कालासेधस्तु' द्वित्रिरहोभिस्त्वं न करोषि [5]चेत् ततस्त्वया इयान् दण्डो राज्ञे दातव्य [6]इति। [7]'प्रवासात्' ग्रामान्तरमन्यत्र वा गच्छसि पूर्ववद्दण्ड्य इति। 'कर्मणः' यद्यदत्वा गृहनिर्माणादिकं करोषि पूर्ववद्दण्ड्य इति। एवं चतुर्विधमासेधं आसिद्धो न लङ्घयेदिति। तथा—

[1] आगच्छति—क, ख, ग, म।
[2] ह्यतिष्ठन्तं—ख, ग।
[3] प्रयाणात्—क, च, छ, ल।
[4] कालकृतः—ग।
[5] तत इयान्—ग।
[6] इतः प्रयाणात्—क, छ, म, ल।
[7] प्रमाणाद्यदत्वा—ख; प्रयाणात् यद्यदत्वा—ग।

क्षेत्रारामगृहादीनि धनधान्यादिकं तथा ।
अन्यायवादिनां चैतान्यासेद्धव्यानि वादिना ॥

एतानि क्षेत्रादीनि विवादास्पदान्येवासेद्धव्यानि, [1]नान्यानि । तच्च क्षेत्रादिष्वपि द्रव्योत्पच्युपायभूतबीजावापादयो [2]निषेद्धव्याः । आसेद्धुः पराजये भोगदण्डयोर्दातव्यत्वश्रवणात् ।

मिथ्यासेधे पुनर्दाप्यो [3]भोगदण्डं च [4]तत्समम् ।
आसेद्धा तु स्वमासेधं स्वयमेवोत्सृजेद्यदि ॥

इति ।

न तस्यातिक्रमाद्दोषो न च दण्डं प्रकल्पयेत् ।
राज्ञो निवेदनादूर्ध्वमासेद्धा नोत्सृजेत्स्वयम् ॥
उत्सृजंश्च दमं दाप्य आसिद्धश्च न लङ्घयेत् ।

आसेधने [5]प्रागावेदनात् मोचने आसेद्धा न दण्ड्यः । ऊर्ध्वं तूत्सृजन् दण्ड्य एव । विवादपराजयप्राप्तं[6] [7]दमशब्देनोच्यते ।
[8]अथानासेद्ध्यानाह **नारदः**—

[1] न च—अ ।
[2] निषेध्याः—क ।
[3] भोगं—म ।
[4] तत्समम्, इति—क, ख ।
[5] प्रागावेदनामोचने—क, छ, म; आसिद्धस्य च प्रागावेदनान्मोचने—ख; प्रागावेदनमोचने—ग ।
[6] प्राप्तिरत्र दम—ल ।
[7] अत्र दम—क ।
[8] अनासेद्ध्या—क ।

नदीसन्तारकान्तारदुर्देशोपप्लवादिषु ।
आसिद्धस्तं परासेधमुत्क्रामन्नापराध्नुयात् ॥
[1][निवेष्टुकामो रोगार्तो यियक्षुर्व्यसने स्थितः ।
अभियुक्तस्तथान्येन राजकार्योद्यतस्तथा ॥

'निवेष्टुकामः' विवाहाभिमुखः । कालविशेषाद[2]नासेद्ध्यानाह]—

गवां प्रचारे गोपालाः सस्यारम्भे कृषीवलाः ।
शिल्पिनश्चापि तत्काल आयुधीयश्च विग्रहे ॥
अप्राप्तव्यवहाराश्च दूतो दानोन्मुखो व्रती ।
विषमस्थाश्च नासेद्ध्या न चैनानाह्वयेन्नृपः ॥

कात्यायनः—

[3]वृक्षपर्वतमारूढा हस्त्यश्वरथनौस्थिताः[4] ।
[5]विमानस्थाश्च ते सर्वे नासेद्ध्याः कार्यसाधकैः ॥
यस्त्विन्द्रियनिरोधेन [6]व्याहारोच्छ्वसनादिभिः ।
आसेधयेदनासेद्ध्यान्[7] स दण्ड्यो न त्वतिक्रमी ॥

[1] [ ]—क, ख, ग, च, छ, ज, ल ।
[2] दप्यना—क, च, छ, ज ।
[3] वृक्षं—क ।
[4] संयुताः—ख ।
[5] विषमस्थाश्च—क ।
[6] व्याहारं च स—क ।
[7] अनासेध्यैः—म ।

एवमावश्यके[1] शरीरव्यापारे[2] निषेधं कुर्वन् दण्ड्यः, न [3]च पूर्वापराधकृदित्यर्थः । **स्मृत्यन्तरे—**

अकल्यबालस्थविरविषमस्थक्रियाकुलान् ।
कार्यातिपातिव्यसनिनृपकार्योद्यतांस्तथा[4] ॥
मत्तोन्मत्तप्रमत्तार्तभृत्यान्नैवाह्वयेन्नृपः ।
न हीनपक्षां युवतिं कुले जातां प्रसूतिकाम् ॥
सर्ववर्णोत्तमां कन्यां न ज्ञातिप्रभुकां स्त्रियम्[5] ।

'ज्ञातिप्रभुकाः' ज्ञातिपरतन्त्राः । तथोक्तम्—

पतिपक्षः प्रभुः स्त्रीणां पितृपक्षस्तदत्यये ।
विनियोगात्मरक्षासु हरणे च स ईश्वरः ॥

[6]इति ।

क्वचिद्विषये पूर्वापवादमाह—

तदधीनकुटुम्बिन्यः स्वैरिण्यो गणिकाश्च याः ।
[7]निष्कुला याश्च पतितास्तासामाह्वानमर्हति[8] ॥

[1] आवश्यकशारी—क ।
[2] व्यापारनि—क ।
[3] च—न दृश्यते—क ।
[4] कार्योत्सवाकुलान्—ख, ग ।
[5] तथा—क, च, छ ।
[6] इति ।—न दृश्यते—क ।
[7] निर्मूला—क ।
[8] मिष्यते—क ।

राज्ञेति शेषः। तत्राकल्यबालस्थ[1]विरस्त्रीणां स्वरूपेण व्यवहारानधिकारिणां पुत्रादिकमन्यं वा सुहृदं समाश्रित्य व्यवहारः प्रवर्तयितव्यः। [2]तस्मिन्नर्थे विशेषमाह **हारीतः**—

योन भ्राता न च पिता न पुत्रो न नियोगकृत्।
परार्थ्यवादी दण्ड्यः स्यात् व्यवहारेषु विब्रुवन्॥

[3]तेषां जयपराजयौ मूलपुरुषस्यैव जयपराजयाविति **नारदः**—

अर्थिना संनियुक्तो वा प्रत्यर्थिप्रहितोऽपि वा।
यो यस्यार्थे विवदते तयोर्जयपराजयौ॥

[4][**बृहस्पतिः**—

अप्रगल्भजडोन्मत्तमत्तस्त्रीबालरोगिणाम्।
पूर्वोत्तरं वदेद्यः स नियुक्तश्चेन्न दोषभाक्॥
ब्रह्महत्यासुरापानस्तेयगुर्वङ्गनागमे।
अन्येष्वसभ्यवादेषु प्रतिवादी न दीयते॥

अन्यत्र—

मनुष्यमारणे स्तेये परदाराभिमर्शने।
अभक्ष्यभक्षणे चैव कन्याहरणदूषणे॥

[1] वृद्ध—क।
[2] अस्मिन्न—क।
[3] तेषां . . . इति—न दृश्यते—क।
[4] [ ]—क, च, छ, म, ल।

पारुष्ये कूटकरणे नृपद्रोहे तथैव च ।
प्रतिवादी न दाप्यः स्यात् कर्ता तु विवदेत्स्वयम् ॥

इति ।]

महापातकाद्यभियोगे अकल्यादीनां सर्वेषां स्वरूपेणैवाह्वानं कर्तव्यम् ।

यस्याभियोगं कुरुते सत्येनाशङ्कया तथा ।
तमेवानाययेद्राजा मुद्रया पुरुषेण वा ॥

नारदः—

देशं कालं च विज्ञाय कार्याणां च बलाबलम् ।
अकल्यादीनपि शनैः यानैराह्वाययेन्नृपः ॥

देवब्राह्मणराजद्रोहादावकल्यबालस्थविरादीनामपि स्वरूपेणाह्वानं यानादिभिः कर्तव्यमित्यर्थः ।

एवं प्रति[1]वादिसन्निधाने सत्येवकर्तव्यमिति [2]**याज्ञवल्क्यः**—

उभयोः प्रतिभूर्ग्राह्यः समर्थः कार्यनिर्णये ।

[3]**कात्यायनः**—

अथ चेत्प्रतिभूर्नास्ति वादयोग्यस्य वादिनः ।
स रक्षितो दिनस्यान्ते दद्याद्दूताय वेतनम् ॥

'कार्यनिर्णये [4]समर्थो' दशबन्धदण्डादियोग्यः ।

[1] वादिनि सत्येवं—ख, ग ।
[2] याज्ञवल्क्य आह—क ।
[3] स्मृत्यन्तरे—क ।
[4] समर्थो दण्डदशबन्धादौ न योग्यः—क, च, छ ।

अत्र **कात्यायनः**—

द्विजातिः प्रतिभूर्हीनो रक्ष्यः स्याद्ब्राह्मचारिभिः ।
शूद्रादीन् प्रतिभूहीनान् बन्धयेन्निगडेन तु ॥
[1]अतिक्रमेऽपयाने [2]वा दण्डयेत्तं पणाष्टकम् ।
नित्यकर्मोपरोधस्तु न कार्यः सर्ववर्णिनाम् ॥

[3]**इति श्रीमद्वरदराजीये व्यवहारनिर्णये [4]आवेदनकाण्डं समाप्तम् ।**

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[1] अतिक्रमे च याने च—ख ।
[2] च—क ।
[3] इति व्यवहारनिर्णये आवेदनाकाण्डम्—क, म ।
[4] आवेदनकाण्डो द्वितीयः—छ ।

३. व्यवहारमातृकाकाण्डम्

[1]व्यवहारमातृकायामभियोगस्वरूपमाह

याज्ञवल्क्यः—

प्रत्यर्थिनोऽग्रतो लेख्यं यथावेदितमर्थिना ।
समामासतदर्धाहर्नामजात्यादि चिह्नितम् ॥

'अर्थः' प्रयोजनं[2]। सिसाधयिषितं [3]यस्यास्ति सोऽर्थी। तस्य प्रतिपक्षतया व्यवस्थितः प्रत्यर्थी। तस्य 'अग्रतः' सन्निधौ लेख्यं लेखनीयम्। 'अर्थिना यथावेदितं' पूर्वं [4]सम्बन्धप्रवेशनकाले यथालिखितं तथा लेख्यम्। [5]अन्यथा चेत् 'अन्यवादीक्रियाद्वेषी' इति पराजय-प्रसङ्गात्। ननु यथावेदितस्य पूर्वमेव [6]सम्बन्धप्रवेशनकाले लिखितत्वात् पुनर्लेखनमनर्थकमित्यत्राह—

'समामास' इति, [7]नानार्थकं पुनर्लेखनं पूर्वं वादिना कालादि-विशेषणविधुरं साध्यमात्रमावेदितम्। उदाहरणं तु—अमुको हिरण्यादिकं

[1] तत्र व्यवहार—क।

[2] नं मनसि साधयिषितं येनार्थ्यते सोऽर्थी—ख।

[3] येनार्थ्यते—क, च, छ।

[4] सभाप्रवेशनकाले तथा लेख्यम्—क।

[5] नान्यथा—म।

[6] सभाप्रवेशनकाले—क, म।

[7] पूर्वं वादिना समामासादिना कालविशेषेण नामादिना च विना साध्य-मात्रं निवेदितम्। उदाहरणं तु—क; नानर्थकं—ख।

मत्तो गृहीत्वा इदानीं प्रार्थ्यमानोऽपि न ददातीति। तदधुना प्रत्यर्थिनोऽग्रतः समामासादिकालविशेषचिह्नितं [1]शुद्धे पत्रे पुनर्लेखनीयमिति विशेषः। [2]आदिग्रहणेन द्रव्यसङ्ख्याप्रमाणादीनां ग्रहणम्। [3]तथा चोक्तं **बृहस्पतिना**——

देशकालविहीनश्च द्रव्यसङ्ख्याविवर्जितः।
साध्यप्रमाणहीनश्च पक्षोऽनादेय इष्यते॥

[4]तथा च **प्रजापतिः**——

प्रत्यर्थिनोऽग्रतः स्थित्वा [5]वादिपक्षं प्रवर्तयेत्।
निरवद्यं सप्रतिज्ञं प्रमाणागमसंयुतम्॥
द्रव्यसङ्ख्योदयं पीडां क्षमालिङ्गं च लेखयेत्।

[6]अत्र विशेषमाह **कात्यायनः**——

[7]देशः कालस्तथा स्थानं सन्निवेशस्तथैव च।
जातिसंज्ञा[8]धिवासश्च प्रमाणं क्षेत्रनाम च॥
पितृपैतामहं चैव पूर्वराजानुकीर्तनम्।
स्थावरेषु विवादेषु दशैतानि निवेशयेत्॥

[1] शुद्धपत्रे—क।
[2] आदिशब्देन—म।
[3] तथोक्तं—क।
[4] तथा च प्रजापतिः—नास्ति—क।
[5] वादी पक्षं—ख।
[6] तत्र—क।
[7] देशश्चैव तथा—क, छ।
[8] संज्ञातिवादश्च—म, ल।

तदयमर्थः—[1][‘देशो’ मध्यदेशादिः । ‘स्थानं’ वाराणस्यादि । ‘संनिवेशः’ तत्रैव पूर्वादिदिग्विभागपरिच्छिन्नः सम्यङ्निवेशितो गृहक्षेत्रादिः । ‘जातिः’ अर्थिप्रत्यर्थिनोः ब्राह्मणत्वादिः । ‘संज्ञा’ देवदत्तादिः । ‘अधिवासः’ समीपदेशः । ‘प्रमाणं’ निवर्तनादि परिमाणं । ‘क्षेत्रनाम’ शालिक्षेत्रं क्रमुकक्षेत्रं कृष्णभूमिः पाण्डुभूमिरिति । पितुः पितामहस्य च नामार्थिप्रत्यर्थिनोः । पूर्वेषां त्रयाणां राज्ञां नामकीर्तनं चेति । समामासादीनां यस्मिन् व्यवहारे यावदुपयुज्यते तत्र [2]तावल्लेखनीयमिति तात्पर्यार्थः ।

तथा च **कात्यायनः**—

वेलां प्रदेशं विषयं स्थानं जात्याकृती वयः ।
साध्यप्रमाणं द्रष्टव्यं संख्या नाम तथात्मनः ॥
क्षमालिङ्गानि वाक्यानि पक्षं संकीर्त्य कल्पयेत् ।

नान्यदिति व्यवस्था] । यस्य विशेषणस्य यत्र दृष्ट उपयोगः तद्विशेषणं तत्र विवक्षणीयं, नान्यदिति व्यवस्था, तत्र—

आधौ प्रतिग्रहे क्रीते पूर्वा तु बलवत्तरा ।

इति [3]वचनात्, तत्रैव कालविशेषणस्योपयोगः । [4]देशादेः स्थावरव्यवहार एवोपयोगः । सामन्तैर्नियन्तव्यत्वात् । तेन साध्यसिद्धिमिच्छताऽमुकेनामुके कालेऽमुकं द्रव्यमियत्सङ्ख्याकममुकया [5]वृद्ध्या मत्तो गृहीतं प्रार्थनाकाले दास्यामीति ।

[1] [ ] क, छ, म, ल ।
[2] तावन्मात्रम्—म, ल ।
[3] वचनात्—नास्ति—क ।
[4] देशादेस्तु—क, ख, ग, म, ल ।
[5] व्यवस्थया—क, च, छ ।

[1]प्रार्थितमधुना न प्रयच्छतीत्यभियोगो वक्तव्यः । अन्यथा केनापि किमपि [2]गृहीतमित्युच्यमाने न कश्चिन्न्यायः प्रवर्तते । अनेकेषां युगपत्कार्यसन्निपाते [3]क्रममाह **प्रजापतिः**—

अर्थानर्थावुभौ बुद्ध्वा धर्माधर्मौ च केवलौ ।
वर्णक्रमेण सर्वाणि पश्येत्कार्याणि कार्यिणाम् ॥

[4]अत्र विशेषमाह **नारदः**—

यस्य वाऽप्यधिका पीडा कार्यं वाऽप्यधिकं भवेत् ।
[5]तस्यार्थवादो दातव्यो नयः पूर्वं निवेदयेत् ॥

[6]‘ अर्थवादो ’ऽभियोगवाद इत्यर्थः ।

[7][**बृहस्पतिः**—

अहंपूर्विकया तावदर्थिप्रत्यर्थिनोर्यदा ।
वादो वर्णानुपूर्व्येण ग्राह्यः पीडामवेक्ष्य वा ॥]

स्मृत्यन्तरे—

यद्यद्गुरुतरं कार्यं [8]न तत्पूर्वं विशोधयेत् ।
वर्णक्रमेण वा पश्येत् गुणयोगेन वा पुनः ॥

[1] इदानीं प्रार्थितं न प्रयच्छतीति—क, ल ।
[2] गृहीत इत्युच्यमाने न कश्चिन्न्यायदर्शने—क ।
[3] क्रमानाह—क ।
[4] अत्र नारदः—क ।
[5] तस्यार्थिवादः—क, ख ।
[6] अर्थिवादः—क, ख, च, छ, ज ।
[7] [ ]—क, छ, म, ल ।
[8] तत्तत्पूर्वं—क ।

देवराजकृतो दोषः तस्मिन् काले यदा भवेत् ।
अवधित्यागमात्रेण न भवेत्स[1] पराजितः ॥

अभियोक्तुरसमर्थत्वे तस्य शिक्षार्थं कालदानं कर्तव्यमिति[2] **कात्यायनः**—

अभियोक्ताप्रगल्भत्वात् वक्तुं नोत्सहते [3]यदि ।
तस्य कालः प्रदातव्यः [4]कार्यशक्त्यनुरोधतः ॥
[5]श्वो लेखनं वा लभते त्र्यहं सप्ताहमेव वा ।
मतिरुत्पद्यते यावत् विवादे वक्तुमिच्छतः ॥

[6]तथा च **स्मृत्यन्तरे**—

भूमौ [7]हि लेखयेत्तावत् यावदर्थो न निश्चितः ।
[8]ऊनाधिकं तु संशोध्य पश्चात्पत्रे निवेशयेत् ॥

एतदुक्तं भवति, आवेदनकाले [9]रागादिना [10]न्यूनाधिकं वा आवेदितं फलकादौ लिखितम्, तथापि भाषाकाले [11]क्रोधाद्युपशमनात् प्रतिवादि-

[1] विपराजितः—क ।
[2] इत्याह कात्यायनः—क, छ, म ।
[3] तु यः—अ ।
[4] काल—छ ।
[5] श्वो लेखनं . . . . मिच्छतः—नास्ति—ख ।
[6] तथा च—नास्ति—क ।
[7] वि—क ।
[8] ऊनाधिकार्थं—क ।
[9] यद्यपि रागादिना—क ।
[10] न्यूनमधिकं वा—क, म, ल ।
[11] क्रोधाद्युपशमात्—क ।

सन्निधौ विवक्षितमुपादाय हेयं त्यक्त्वा शुद्धं पत्रे लेखयेदिति । [1]ननूक्तस्यान्यथाकरणे अव्यवस्था स्यात् । [2]नाव्यवस्था । **नारदेन** व्यवस्थाया उक्तत्वात् । तथाहि—

भाषाया उत्तरं यावत्प्रत्यर्थी न निवेशयेत् ।
[3]अर्थी तु लेखयेत्तावद्यावद्वस्तु विवक्षितम् ॥

तथा—

शोधयेत्पूर्ववादं तु यावन्नोत्तरदर्शनम् ।
अवष्टब्धस्योत्तरेण [4]निवृत्तं शोधनं [5]भवेत् ॥

उत्तरोक्तौ तु '[6]दुष्टस्य पक्षस्य निवृत्तिरेव शोधनम्'

इति वचनादुत्तरोत्तरकालमुक्तस्य अन्यथा करणं न संभवतीति [7]नाव्यवस्थाप्रसङ्गः । [8]तस्य दुष्टस्य पक्षस्य शोधनमकृत्वोत्तरोक्तौ

'रागाल्लोभाद्भयाद्वापि स्मृत्यपेतादिकारिणः'

इत्युक्तरीत्या सभ्याः पृथक्पृथक् दण्ड्याः । व्यवहारदर्शनं पुनः [9]प्रतिज्ञान्तरपूर्वकं कर्तव्यमेव ।

[1] ननु—नास्ति—क ।
[2] नास्त्यवस्था—क, ल ; नाप्यवस्था—ख ।
[3] अर्थं—अ ।
[4] निवृत्तिः—म ।
[5] हरेत् इति—क ।
[6] दृष्टस्य निवृत्तं शोधनमिति—क ।
[7] नानवस्थाप्रसङ्गः—म ।
[8] तत्र दृष्टस्य पक्षस्य शोधनं कृत्वोत्तरोक्तौ—क ।
[9] प्रतिज्ञापूर्वकं—क ।

'अनेकपदसंकीर्णः पूर्वपक्षो न सिद्ध्यति'

इति यदीदं वचनं [1]तत्साधनभेदप्रतिपत्तिविषयम् । [2]उदाहरणम्—कस्मिंश्चित्काले सुवर्णमनेनापहृतं[3] शपथेन साधयामि । कदाचिद्रजतमप्यपहृतं साक्षिभिः [4]साधयामि । कदाचिद्वर्तुलवृद्ध्यर्थं मत्तो गृहीतं [5]याच्यमानं न ददाति, तल्लेख्येन साधयामि । इत्येवमुक्ते साधनभेदात् क्रमेण निर्णयो [6]वर्णनीयः, न युगपत् । तथात्वेऽष्टादशपदानां[7] संकरः स्यात् । अतो यथाभियोक्तृपुरुषभेदे[8] क्रियाभेदः । एवं हेतुभेदेऽपि क्रियाभेदः । अतो भिन्नसाधनानेकपदसंकीर्णः पूर्वपक्षो युगपन्न सिद्ध्यतीति क्रियाभेदात् कालभेदेन व्यवहारो [9]युज्यते । [10]यत्र त्वनेकपदानामप्येकसाधनेन साध्यता तत्र साध्यभेदादनेकप्रतिज्ञा युक्तेत्याह—

बहुप्रतिज्ञं यत्कार्यं व्यवहारे सुनिश्चितम् ।
कामं तदपि गृह्णीयात् राजा तत्त्वबुभुत्सया ॥

'सुनिश्चितम्' एकेन साधनेन साधयितुं योग्यतया [11]निश्चितमित्यर्थः ।

[1] तत्साध्यभेदप्रतिपत्तिविषयं—क, च, छ, म, ल ।
[2] उदाहरणं तु—क, च, छ, म ।
[3] अपहृतमिति—क ।
[4] साधयामीति—क, च, छ ।
[5] याच्यमानो—क, च, छ ।
[6] व्ययः युगपत्—क, च, छ ।
[7] अष्टादशानां पदानां—क, च, छ ।
[8] अभियोगत्रिपुरुषभेदक्रियाभेदः—क, च, छ ।
[9] गृह्यते—क, छ ।
[10] तत्र—क ।
[11] सुनिश्चितमित्यर्थः—क ।

तत्राभियोगो द्विप्रकार इत्याह **नारदः**—

[1]अभियोगस्तु विज्ञेयः शङ्का तत्त्वाभियोगतः ।

[2]उभयत्र कारणमाह—

शङ्कासतां तु संसर्गात् तत्त्वं होढादिदर्शनात् ॥

दुष्टैः संसर्गात् 'शङ्का' भवति । [3]'होढा(डा)'लोप्तृचिह्नमिति नष्टैकदेशद्रव्यमिति[4] यावत् । [5]अपहृतद्रव्यैकदेशस्य दर्शनान्निश्चय इति । उभयत्रोदाहरणं [6]तु—चोरैः संसर्गान्मदीयं द्रव्यमनेनापहृतमिति शङ्का भवतीति शङ्काभियोगः । स चैकरूप एव । नष्टद्रव्यस्यैक[7]देशदर्शनात् तत्वाभियोगः, निश्चयाभियोग इत्यर्थः । स च विधिप्रतिषेधरूपेण द्विविध इत्याह **कात्यायनः**—

न्याय्यं वा नेच्छते कर्तुमन्याय्यं वा करोत्ययम् ।
न लेखयति [8]यस्त्वेवं तस्य पक्षो न सिद्ध्यति ॥

इति। 'न्यायं न करोति' 'अन्यायं वा करोति' इति तत्त्वाभियोगो द्विविधः । उदाहरणं तु— काले दास्यामीत्युक्त्वा वृद्ध्यर्थं मत्तो हिरण्यादिकं गृहीत्वा काले प्राप्ते याच्यमानो न ददाति, न्यायं न

[1] ह्यभियोगस्तु—क, ख, छ ।
[2] उभयत्र कारणमाह—नास्ति—ख ।
[3] होढो—क, ख ।
[4] द्रव्यदर्शनमिति—ख ।
[5] तेनापहृत—क ।
[6] तु—नास्ति—क ।
[7] एकदेशादिदर्शनात्—क ।
[8] यस्त्वेव—क ।

[1]करोतीत्यभियोगः । मदीयं हिरण्यादिकमयं बलादपहरतीति अन्यायं करोतीति, [2]अन्यायाभियोगः ।

अस्यैव द्विविधस्य अभियोगस्य ऋणादिसाध्यभेदेना[3]ष्टादशधा भेदमाह **बृहस्पतिः**—

द्विपदो व्यवहारः स्याद्धनहिंसासमुद्भवः ।
द्विसप्तकोऽर्थमूलस्तु हिंसामूलश्चतुर्विधः ॥

तथा च **कात्यायनः**—

द्वे पदे (भेदे) साध्यभेदात्तु पदाष्टादशतां गते ।
अष्टादशक्रियाभेदात् भिन्नान्यत्र सहस्रशः ॥

वादिप्रतिवादिपुरुषाणां क्रियाभेदात्सहस्रशो बहुश इत्यर्थः ।

[4]अथ तान्यष्टादशपदान्याह **नारदः**—

ऋणादानं ह्युपनिधिः संभूयोत्थानमेव च ।
दत्तस्य पुनरादानमशुश्रूषाभ्युपेत्य च ॥
वेतनस्यानपाकर्म तथैवास्वामिविक्रियः ।
विक्रीयासंप्रदानं च क्रीत्वानुशय एव च ॥

[1] करोत्यभियोगः—क ।
[2] अभियोगः—क ।
[3] अष्टादशधा भेदः—म ।
अत्र बृहस्पतिः—द्विपद इति पद्यं च नास्ति—क ।
तथा च कात्यायनः—
अष्टादशधा भेदाः । बृहस्पतिः—द्विपदो—ख ।
[4] अथ—नास्ति—क ; तथाष्टादशपदान्याह नारदः—ख ।

समयस्यानपाकर्म विवादः क्षेत्रजस्तथा ।
स्त्रीपुंसयोश्च सम्बन्धो दायभागोऽथ साहसम् ॥
वाक्पारुष्यं तथैवोक्तं दण्डपारुष्यमेव च ।
द्यूतं प्रकीर्णकं चैवेत्यष्टादश [1]पदं स्मृतम् ॥

[2]एवं पूर्वपक्षेऽभिहिते उत्तरं व्यवहारमातृकायां **याज्ञवल्क्य** आह—

श्रुतार्थस्योत्तरं लेख्यं पूर्वावेदकसन्निधौ ।

'श्रुतः' अनुभूतः प्रत्यक्षेणैव येन [3]भाषितेऽर्थः न परवचनात्तस्य 'उत्तरं' लेखनीयम्, पूर्वावेदकस्यार्थिनः सन्निधाने ।

कात्यायनः—

यदा त्वेवंविधः पक्षः कल्पितः पूर्ववादिना ।
दद्यात्तत्पक्षसम्बन्धं प्रतिवादी [4]तदोत्तरम् ॥

'पक्षसम्बन्धं' उत्तरकालं [5]कृत्स्नपक्षार्थनिराकरणसमर्थमुत्तरं दद्यादिति ।

नारदः—

पक्षस्य व्यापकं सारमसन्दिग्धमनाकुलम् ।
[6]अव्याख्यागम्यमित्येवमुत्तरं तद्विदो विदुः ॥
शालीनत्वाद्भयाद्वापि प्रत्यर्थिस्मृतिविभ्रमात् ।
कालं प्रार्थयते यत्र तत्रेमं लब्धुमर्हति ॥

[1] पदानि वै—क ।
[2] एवं पक्षेऽभिहिते व्यवहारमातृकायामुत्तरं याज्ञवल्क्य आह—क ।
[3] भाषार्थः—क ।
[4] तथोत्तरम्—अ ।
[5] कृत्स्नपक्षनिराकरण—क, ख, ग, च ।
[6] अनश्यागम्य—म ।

[1]एकाहं वा त्र्यहं वापि पञ्च सप्ताहमेव वा[2] ।
मासं मासत्रयं [3]वर्षं लभते शक्त्यपेक्षया ॥
समातीते दिनं देयं त्रिरात्रं तु षडब्दके ।
द्व्यब्दे त्रिरात्रमेव स्यात् सप्ताहं द्वादशाब्दिके ।
पञ्चाहं नववर्षे स्यात् दशाहं [4]विंशतौ भवेत् ॥
मासार्धं पञ्चविंशत्या मासं त्रिंशत्समास्वपि ।
त्रिपक्षं परतो देयं [5]विवादं वदतां नृणाम् ।
कालं शक्तिं विदित्वा तु कार्याणां च बलाबलम् ॥
अल्पं वा बहु वा कालं दद्यात्प्रत्यर्थिने प्रभुः ।

किं बहुना—

सद्यः कृतेषु कार्येषु सद्य एव विवादयेत् ।
कालेऽतीतेषु वा कालं दद्यात्प्रत्यर्थिने नृपः ॥

अत्र **प्रजापतिः**—

दिनमेकमथ द्वे वा त्रीणि वा पञ्च सप्त वा ।
[6]कालस्त्वृणादौ दाप्यःस्यात् त्रिपक्षादपि (वधिकः) स्मृतः ॥

[1] एकाहं द्व्यहं त्र्यहं—अ ।
[2] च—अ ।
[3] पक्षं—क, च, छ, ज ।
[4] विंशतेः—अ ।
[5] विवादे—च ।
[6] कालस्त्वृणादौ गहन आत्रिपक्षादहः स्मृतम्—अ ।

कात्यायनः—

संवत्सरं वामनको जडो व्याधिप्रपीडितः ।
[1]दिगन्तराद्गच्छति चेद्यस्तु स्वकृतिनिर्णयः ॥

[2]यदा पुनः काले दत्ते देवकृतं राजकृतं वा विल तदान्यः कालो देयः ।

दत्तेऽपि काले देयः स्यात् पुनः कार्यस्य गौरवात्

हारीतः—

कृते कार्ये विवादे तु सद्योऽनन्तरमुत्तरम् ।
अपरत्रागते काले कालः कालेऽपि दीयते ॥

अथ सद्यो विवादमाह **बृहस्पतिः**—

धेनावनडुहि क्षेत्रे स्त्रीषु प्रजनने तथा ।
न्यासे याचितके दत्ते तथैव क्रयविक्रये ॥
कन्याया दूषणे स्तेये कलहे साहसेषु च ।
उपधौ कूटसाक्ष्ये च सद्य एव विवादयेत् ॥

याज्ञवल्क्यः—

साहसस्तेय[3]पारुष्यगोभिशापात्यये स्त्रियाः ।
विवादयेत्सद्य एव कालोऽन्यत्रेच्छया स्मृतः ॥

[1] दिगन्तराद्गच्छति चेत्तदा सुकृतनिर्णयः—क, च, छ, म, ल राद्गच्छति चेत् वस्तुष्वकृतनिर्णयः—ख, ग ।

[2] यदा पुनः काले दत्ते दैवराजकृतं विलम्बनं भवति—क; यदा दैवराजकं भवति—ख, ग; दैविकं राजकं भवति—म ।

[3] पारुष्ये—क ।

[1]अत्रोत्तरं **कात्यायनः**—

मिथ्यासंप्रतिपत्त्या वा प्रत्यवस्कन्दनेन वा ।
प्राङ्न्यायविधिसिद्ध्या वाप्युत्तरं स्याच्चतुर्विधम् ॥

उदाहरणं तु—

मत्तो [2]हिरण्यादिकं गृहीतमित्यभियोगे कृते, उत्तरवादिना न गृहीतमित्येकं । सत्यं गृहीतं दास्यामीत्यपरं । गृहीत्वा [3]दत्तमित्यन्यत् । अस्मिन् विवादे मया [4]पूर्वमेव विजित इति, एवं चतुर्विधमुत्तरं संभवति । [5]न पुनः गृहीत्वा न प्रयच्छामीत्युत्तरं संभवति । तत्र न गृहीत-मित्युत्तरे पूर्ववादिना ग्रहणं साध्यम् । सत्यं गृहीतं दास्यामीत्युत्तरे न क्रियायाः प्रयोजनमस्ति, संप्रतिपत्तेः । गृहीत्वा दत्तमित्युत्तरे ग्रहण-स्या[6]भ्युपगतत्वादुत्तरवादिना [7]प्रतिदानं साध्यम् । अस्मिन् विवादे मया पूर्वमेव जित [8]इत्युक्ते, जयो जयपत्रेण व्यवहारदर्शिभिर्वा भावयितव्यः । तथा च **वृद्धवसिष्ठः**—

सत्यानृते कारणं च प्राङ्न्यायश्चोत्तरं पृथक् ।
साध्यस्य सत्यवचनं [9]प्रतिपत्तिरुदाहृता ॥

[1] कात्यायनः—क ।
[2] गृहीतं हिरण्यादिकं—क ।
[3] प्रतिदत्त—क, ल ।
[4] पूर्वमेवायं जित इति तत्—क ।
[5] न पुनर्गृहीत्वेति नास्ति—क ।
[6] अभ्युपगमात्—क, ख ।
[7] दानं साध्यम्—क, छ ।
[8] इत्युत्तरे—क ।
[9] प्राङ्न्यायस्तु स उच्यते— म, ल ।

कारणं स्यादवस्कन्दो मिथ्यास्यात्सत्यनिह्नुतिः ।
आचारेणावसन्नोऽपि पुनर्लेखयते यदि ।
[1]सोऽभिधेयो जितः पूर्वं प्राङ्न्यायस्तु स उच्यते ॥

[2][तत्रोत्तरोक्तिक्रमं **कात्यायन** आह—

तथ्ये तथ्यं प्रयुञ्जीत मिथ्यामिथ्या च लेखयेत् ।
कारणं कारणोपेते प्राङ्न्याये तु जयं तथा ॥

इति ॥]

तत्र साधनप्रकारमाह **हारीतः**—

प्राङ्न्याये कारणोक्तौ च प्रत्यर्थी निर्दिशेत्क्रियाम् ।
मिथ्योक्तौ पूर्ववादी तु प्रतिपत्तौ न सा भवेत् ॥

[3]तथा च **नारदः**—

मिथ्याक्रिया पूर्ववादे कारणे प्रतिवादिनि ।
प्राङ्न्यायविधिसिद्धौ तु जयपत्रक्रिया भवेत् ॥

तत्र मिथ्याचा[4]तुर्विध्ये **हारीतः**—

मिथ्यैतन्नाभिजानामि तदा तत्र न सन्निधिः ।
अजातश्चास्मि तत्काल इति मिथ्या चतुर्विधा[5] ॥

[1] योऽभिधेयो—क, ख, च, छ, ज ।
[2] [ ] क, छ, म, ल ।
[3] नारदः—क ।
[4] चतुर्विधेत्याह हारीतः—क ।
[5] धे—म ।

[1]सर्वथा यथाकथंचिदभियोगाभावे मिथ्या भवतीत्यै[2]कार्थ्यमेवेति **कात्यायनः**—

श्रुत्वा भाषार्थमन्यस्तु यदा तं प्रतिषेधति ।
अर्थतः शब्दतो वाऽपि मिथ्या तज्ज्ञेयमुत्तरम् ॥

अन्यैरप्येवमेव संक्षिप्य मिथ्यालक्षणमुक्तम् ।

अभियुक्तोऽभियोगस्य यदि कुर्यादपह्नवम् ।
मिथ्या तत्तु विजानीयादुत्तरं व्यवहारतः ॥

मनुः—

अर्थिना लिखितो योऽर्थः प्रत्यर्थी यदि तं तथा ।
प्रपद्यकारणं ब्रूयात् प्रत्यवस्कन्दनं हि तत् ॥

[3]एतदेवाधार्यमिति कैश्चिदुच्यते ।

वृद्धकात्यायनः—

व्यपेता तु क्रिया यत्र ह्यभियुक्तेन कीर्तिता ।
आधार्यं तद्विजानीयात्पूर्वपक्षस्य नान्यथा ॥
[[4]व्यपेता तु क्रिया यत्र [5]यदा न्यग्भाव एव वा ।]

[1] सर्वदा—ख ।
[2] ऐकविध्यमेवेति, अस्मिन्नर्थे कात्यायनः—क ।
[3] एतदेवाधर्यमिति—क, ख, ग ।
[4] [ ] ख, ग, म, ल ।
[5] प्रेत्यानुक्रियाभावः—क ।

[1]हारीतः—

[2]आचारेणावसन्नोऽपि पुनर्लेखयते यदि ।
सोऽभिधेयो जितः पूर्वं प्राङ्न्यायस्तु स उच्यते ॥

तत्र [3]कारणोत्तरं द्विविधम्, शुद्धं मिथ्यासहचरितं [4]च । शुद्धस्योदाहरणम्—सुवर्णशतं [5]मदीयमनेन गृहीतमित्युक्ते सत्यं गृहं तत्प्रतिदत्तमिति । एतदेव प्रत्यवस्कन्दनमित्युच्यते । असाध्यत्वेन ग्भावात् । असाध्यत्वं चाभ्युपगमात् । तथा यैरेव विशेषणैर्युक्तो नार्थो [7]लिखितः, [8]तैरेव युक्तमभ्युपगम्य[9] प्रतिवादी यदि कार [10]तदाधार्यमित्युच्यते । उदाहरणं तु—[11]रूपकशतमनेन गृहीतं, दत्तं च, तद्धिरण्यादिक्रयार्थमित्याधार्यं गृहीतं न दत्तमित्यस्याभ्युपगमादेवा[13]साध्यत्वेन न्यग्भावात् । तत्र मिथ्यासहचरितस्योदाहर

[1] हारीतः—'आचारेणेति' पद्यं च नास्ति—क ।
[2] अपरेणा—म ।
[3] कारणोक्तं—क ।
[4] चेति, शुद्धस्योदाहरणम्—क ।
[5] मदीयम्—नास्ति—क ।
[6] न्यद्भावात्—ख ।
[7] लेखितः—क ।
[8] तैरेवमुक्तमभ्युपगम्य—ख ।
[9] गम्य यदि-—क ।
[10] तदाधर्यं—क ।
[11] रूपकमनेन—क ।
[12] दत्तं तु—क ।
[13] असाध्यत्वेनैव भावात्—क ।

यथा शृङ्गिणी [1]कृष्णा मदीया गौरस्मद्गृहे जाता, अमुकस्मिन् काले नष्टा, सा चैतस्य गृहे दृष्टा इत्युक्ते, उत्तरवादी [2]त्वाह—मिथ्यैतत्, सा मम गृहे जातैव, [3]त्वत्प्रदर्शितकालात्प्रागपि मद्गृहे [4]स्थितैवेत्युक्ते न शुद्ध-मिथ्या, कारणोपन्यासात्। नापि शुद्धकारणम्। [5]पक्षाद्युपगमाभावात्। '[6]वादिना लिखितो योऽर्थः' इति मनुना शुद्धकारणलक्षणाभिधानात्। न चानुत्तरम्। [7]व्यापकत्वेन पक्षनिराकरणसमर्थत्वात्। तदेतन्मिथ्या-सहचरितं [8]कारणम्। प्राङ्न्यायस्तु त्रिविधः।

ऐन्द्रस्थाने जितस्य प्राङ्न्यायविधिसिद्धौ [9]जयपत्रेणाहं भाव-यामीत्येकः[10]। कुलव्यवहारे च जयपत्राभावात्। 'कुल्याः कुलविवादेषु विज्ञेयास्तेऽपि साक्षिणः' इति वचनात्। तैरेव व्यवहारदर्शिभिः [11]भावयामीति द्वितीयः।

[1] गौरस्मद्गृहे जाता अमुकस्मित् काले नष्टा सा चास्य—क।

[2] इत्याह मिथ्यैव तत्—क।

[3] तत्प्रदर्शित—क।

[4] व्यवस्थितेत्युक्तेन—क।

[5] पक्षाभ्युपगमाभावात्—क, म।

[6] 'अर्थिना लिखितो योऽर्थः' इति हि मनुना शुद्धिकारणलक्षणमुक्तम्—क, म; वादिना—ल।

[7] व्यापकत्वेन—न दृश्यते—क।

[8] कारणमिति—क।

[9] जयपत्रक्रिया भवेत् इति वचनात्—क, छ, म।

[10] एकम्—क।

[11] साधयामि—छ।

राज्ञा धर्मासनस्थेन यच्छ्रुतं [1]तत्त्वदर्शिना ।
नान्यः साक्षी भवेत्तत्र मुक्त्वा राजानमीश्वरम् ॥

इति वचनात्, साक्ष्यभावात्तेन [2]राज्ञा भावयामीति तृतीयः ॥

तत्र 'श्रुतार्थस्योत्तरं लेख्यं' इत्येकवचनश्रवणात्, बहूनां हेतूनां संकरो निरस्तः । [3]उदाहरणम्—मदीयं [4]हिरण्य रूपकं रत्नानि वासांसि चानेन गृहीतानीत्युक्ते, सत्यं हिरण्य [5]गृहीतं, दास्यामि, रूपकं प्रदत्त, वासांसि न गृहीतानि । हिरण्यादिरत्नानि गृहीतानि क्रयार्थमित्यत्र अवश्यं मिथ्याकारणयोरुभयत्र क्रिया भवति, तच्च न संभवति । एकस्मिन् विवादे उभयोः [7]साध्याभावात् ।

एतत्सर्वं **कात्यायन** आह—

पक्षैकदेशे यत्सत्यमेकदेशे च कारणम् ।
मिथ्या चैवैकदेशे च संकरात्तदनुत्तरम् ॥

इत्युक्त्वा तत्रैव कारणं **तेनैवो**क्तम्—

न चैकस्मिन् विवादे तु क्रिया स्याद्वादिनोर्द्वयोः ।
न चार्थसिद्धिरुभयोर्न चैकत्र क्रियाद्वयम् ॥

[1] तत्वमिच्छता—क, ल ।
[2] राज्ञा—नास्ति—क ।
[3] उदाहरण तु—क, छ ।
[4] हिरण्यक—क, छ ।
[5] गृहीत—नास्ति—क ।
[6] तु प्रतिदत्त क्रयार्थं रत्नानि गृहीतानि वासांसि गृहीतानीत्युक्ते—म ।
[7] साध्यासम्भवात्—क, छ ।

तत्र सङ्करोक्तावेवं कर्तव्यमिति [1]हारीतः—

मिथ्योत्तरं कारणं च स्यातामेकत्र [2]चेदुभे ।
सत्यं वापि सहान्येन तत्र ग्राह्यं किमुत्तरम् ॥

इत्युक्त्वोक्तम् ॥

यत्प्रभूतार्थविषयं यत्र वा स्यात् क्रियाफलम् ।
उत्तरं तत्र [3]विज्ञेयमसङ्कीर्णमतोऽन्यथा ॥

[4]एवमुत्तरं तत्रासङ्कीर्णं भवति । अतोऽन्यथा सङ्कीर्णं वादभेदापादकं भवतीत्यर्थः । उदाहरणम्— असौ मत्तः सुवर्णशतमेकं च रजतं गृहीत्वा याच्यमानो न प्रयच्छतीत्यभियोगे, सुवर्णशतं न गृहीतं, रजतमेकं प्रतिदत्तमित्यभिहिते न वादभेदः । मिथ्यांशे पूर्ववादिनः [5]क्रिया प्राप्ता प्रभूतविषयेति, पूर्ववाद्येव [6]तत्साधनादेव रजतप्रतिदानाभावमपि साधयेदिति न वादभेदप्रसङ्गः । क्रियाफलस्योदाहरणम्— मत्तोऽसावेकं सुवर्णं गृहीत्वा याच्यमानो न [7]केवलं न ददाति, किं तु मच्छिरसि ताडितवानित्यभियोगे, न शिरसि ताडितं, सुवर्णं च प्रतिदत्तमित्युत्तरेऽभिहितेऽपि,[8] न वादभेदः । पूर्ववादिनः

[1] हारीत आह—क ।
[2] चैव हि—ख, ग, छ, म ।
[3] तद्ज्ञेय—क ।
[4] उत्तरसङ्कीर्णं— क, च, छ ।
[5] प्राप्ता क्रिया प्रभूतविषयेऽत्र—क ।
[6] तत्साधनादेव इति नास्ति—क ।
[7] केवलं ददातीति मम शिरसि—क, ख, च, छ ।
[8] अपि इति नास्ति—क, च, छ ।

[1]क्रियाया दण्डगुरुत्वापादकत्वात्, पूर्ववाद्येव शिरसि ताडनं [2]सुवर्णप्रतिदानाभावं च साधयेत्। [3]तेन यत्र मिथ्याकारणयोर्दण्डसाम्यमर्थसाम्यं च भवति, तत्र वादभेदः। उदाहरणं तु—असौ मत्तः सुवर्णद्वयं गृहीत्वा याच्यमानो न प्रयच्छति इत्यभियोगे, एकं न गृहीतमेकं[4] गृहीतं, तच्च प्रतिदत्तं चेत्युत्तरे, दण्डार्थयोः साम्यात् वादभेदः। यत्र [5]पुनरेकस्मिन्नेव साध्ये, मिथ्याकारणे[6] भवतः। उदाहरणं—शृङ्गिणी गौर्मदीया अमुकस्मिन्मासि नष्टा, साऽस्य गृहे दृश्यमाना प्रार्थ्यमाना न दीयत इत्यभियोगे, उत्तरवादी तु, न त्वदीया सा गौरिति प्रतिषिध्य, मदीयैव सा इत्यात्मसम्बन्धं प्रतिज्ञाय कारणमभिहितवान्, सा गौर्ममैव, त्वदुक्तकालात्प्रागपि मद्गृहे स्थितेति। एवं मिथ्याकारणसंकरे [7]उत्तरे, उत्तरमेव कारणं ग्राह्यम्।

'मिथ्याकारणयोर्वाऽपि ग्राह्यं कारणमुत्तरम्'

इति वचनात्। न च 'अभाववादिनि[8] क्रियाकारणे प्रतिवादिनि' इति वचनात्। ननु 'मिथ्याक्रिया पूर्ववाद' इतीदमपि[9] वचनमेव। सत्यं, तच्छुद्धं मिथ्याभिप्रायेण। ननु 'कारणे प्रतिवादिनि' इति किमिति

[1] क्रियादण्ड—क।
[2] सुवर्ण—न दृश्यते—क, छ।
[3] तेन मिथ्याकारणयोः—ख।
[4] एकं गृहीतं प्रतिदत्तं—ख, छ।
[5] त्वेकस्मिन्नेव—क।
[6] कारणोत्तरे भवतः। उदाहरणम्—शृङ्गग्राहिकया इयं गौः—क, छ।
[7] तूत्तरे कारणोत्तरमेव ग्राह्यम्—क, च, छ; उत्तरे—नास्ति—ख।
[8] वादिनः—ख; वादिना—म।
[9] अपि—नास्ति—क।

[द्ध]कारणाभिप्रायेण न भवति । मैवम् । '[1]प्रतिवादिनि' इत्यनेन करोत्तरे मिथ्यानिराकरणमात्रम[2]त्रोच्यते । 'मिथ्याक्रियापूर्ववाद' इत्यनेन [3]यस्यासाध्यमस्ति असौ साधयेदित्युच्यते । कारणोत्तरे [4]पुनरुत्तरवादिन[े]व साध्यम्, 'कारणात्पूर्वप[5]क्षोऽपिह्युत्तरत्वं प्रपद्यत' इति वचनात् । न 'मिथ्योत्तरे [6]पूर्ववादिनि' इत्यनेन 'कारणोत्तरे उत्तरवादिनि' [इ]त्यस्यार्थस्य सिद्धत्वात्, 'कारणे प्रतिवादिनि' इत्यनेन मिथ्यानिराकरण-[मे]वोच्यत इति [7]सुष्ठूक्तम् ।

[अ]थ [[8]उत्तराभासाना लक्षणमाह][9] **कात्यायनः—**

सन्दिग्धमन्यत्प्रकृतादत्यल्पमतिभूरि च ।
पक्षैकदेशव्या[10]प्य यत् तच्च नैवोत्तरं भवेत् ॥

[तथ]ा च **हारीतः—**

[11]व्यत्यस्तपदमव्यापि निगूढार्थमथाकुलम् ।

[1] कारणे प्रतिवादिनि—क, ख ।
[2] अत्र—नास्ति—क, छ ।
[3] य' साध्यमस्ति—क, यस्य साध्यमस्ति—ख, ळ ।
[4] तूत्तरवादिन—क ।
[5] पक्षोऽपि ह्युत्तरत्व—क ।
[6] पूर्ववादे क्रियेत्यनेन कारणे प्रतिवादिनीत्यस्यार्थस्य सिद्धत्वात्—क ।
[7] सूक्तम्—अ ।
[8] उत्तराभासानाह—अ, क ।
[9] [ ]—छ ।
[10] व्याप्यन्यत् तथा नैवोत्तर—क ।
[11] युक्त्यव्यस्तपद वाऽपि निगूढार्थं तथाऽऽकुलम्—अ ; यद्व्यस्तपद--ळ ।

व्याख्यागम्यमसारं च नोत्तरं [1]शस्यते [2]बुधैः ।

[3]उदाहरणानि—

'सन्दिग्धं' यथा—सुवर्णशतमनेन गृहीतमित्युक्ते, सत्य गृहं सुवर्णशत माषशतं वेति [4]प्रकृतादन्यथा सुवर्णस्य शताभियोगे वस्त्र धारयामीति । 'अत्यल्प' यथा—सुवर्णशताभियोगे पञ्चाशतं धारयामीति 'अतिभूरि' यथा—शताभियोगे सहस्र धारयामीति । 'पक्षैकदेशव्यापि' यथा—हिरण्यवस्त्राभियोगे हिरण्यं धारयामीति । 'व्यस्तपदं' यथा—ऋणादानाभियोगे पदान्तरेणोत्तर [[5]यथा सुवर्णशताभियोगे अनेन ताडित इति । 'अव्यापि' यथा—देशस्थानादिविशेषणाव्यापीत्यर्थः यथा—मध्यदेशे वाराणस्यामुत्तरस्यां दिशि शालिक्षेत्रमपहृतमित्युक्ते दे नापहृतमिति । 'निगूडार्थं' यथा—] सुवर्णशताभियोगे किमहमेव धारय मीति । [6]अर्थी प्राड्विवाकः सभ्यो वाऽन्यो वाऽन्यस्मै धारयति, सूचयती निगूढार्थम् । 'आकुल' पूर्वापरविरुद्धं यथा—शताभियोगे सत्य गृहीतं धारयामीति । 'व्याख्यागम्य' यथा—दुःश्लिष्टविभक्तिसमासाध्याहाराभि धानेन व्याख्यागम्यम् । अदेशभाषाभिधानेन वा यथा—सुवर्णशतत्रिप पित्रर्णाभियोगे [7]गृहीत वचनात् सुवर्णाना पितुर्जानामीति । अ

[1] स्वार्थसिद्धये—क, छ, म, ल ।

[2] जनैः—च ।

[3] इतःप्रभृति 'मूल्य गृहीत'मित्यन्त नास्ति—क, च, छ, म, ल ।

[4] प्रकृतादन्यत् यथा ग ।

[5] [ ] ख, ग, ज ।

[6] अत्र—ख ।

[7] गृहीतशतवचनात्—ख ।

गृहीतशतस्य पितुर्वचनात्[1], सुवर्णाना शत गृहीतमिति न जानामीति याख्यागम्यत्वम् । 'असार' यथा—तच्च विरुद्धं सुवर्णशतं वृद्ध्या गृहीत, द्धिरेव दत्ता न मूल्यमित्यभियोगे, सत्य वृद्धिर्दत्ता न मूल्यं गृहीतमिति ।

कात्यायनः—[2]

उन्मत्तमत्तनिर्धूतमहापातकदूषिताः ।
जडान्धवृद्धा स्त्रीबाला विज्ञेयास्तु निरुत्तराः ॥

[अत्र] **बृहस्पतिः—**

पूर्वपक्षे यथार्थे[4] तु न दद्यादुत्तरं तु यः ।
प्रत्यर्थी दापनीयः स्यात्सामादिभिरुपक्रमैः ॥

[सामादिलक्षणं तथा]—

प्रियपूर्वं वच साम भेदस्तु भयदर्शनम् ।
अर्थापकर्षण दण्डस्ताडनं बन्धनं तथा ॥
उपायैश्चोद्यमानस्तु[6] न दद्यादुत्तरं तु यः ।
अतिक्रान्ते सप्तरात्रे जितोऽसौ दण्डमर्हति ॥
मोहाद्वा यदि वा शाठ्याद्यन्नोक्तं पूर्ववादिना ।
उत्तरान्तर्गतं वाऽपि तद्ग्राह्यमुभयोरपि ॥

[1] गृहीतस्य पितुर्वचनात्—ख ।
[2] कात्यायनः—उन्मत्तः . . . निरुत्तराः—नास्ति—ख ।
[3] [ ] क, ग, च, छ, ज ।
[4] भूत—अ ।
[5] [ ]—छ ।
[6] शोध्यमानस्तु- ख ।

कात्यायनः—

[1]स्वभावाल्लिखिते वाक्ये प्रारब्धे कार्यनिर्णये ।
[2]अनुक्तं तत्र यो ब्रूयात्तदर्थात्स तु हीयते ॥

इदं परस्त्रीभूम्यृणादानव्यतिरिक्तविषयम्[3] । तत्र [4]अर्थहान्यभावात् । स्
स्थानीयां व्यवहारमातृकां निगमयति **याज्ञवल्क्यः**—

ततोऽर्थी लेखयेत्सद्यः प्रतिज्ञातार्थसाधनम् ।
तत्सिद्धौ सिद्धिमाप्नोति विपरीतमतोऽन्यथा ॥
चतुष्पाद्व्यवहारोऽयं विवादेषूपदर्शितः ।

'तत' तस्मादुत्तरकालादनन्तरं, 'अर्थी लेखयेत्', साध्यवान् । 'सद्य एव नाभियोगोत्तरप्रतीक्षा कर्तव्या । साध्यतेऽनेनेति 'साधनं' प्रमाणम् ततस्तस्य प्रतिज्ञातार्थसिद्धौ जयपत्रलक्षणप्राप्तिः 'सिद्धि' शब्देनोच्यते 'विपरीतं' पराजयः । 'अन्यथा' तस्यासिद्धौ । अतः सद्य एवार्थ प्रतिज्ञातार्थस्य साधनं लेखयेदिति । [5]अत्रार्थिग्रहणेन यस्य साध्यमस्ति तस्य परिग्रहः । तथा च सति प्राङ्न्याये कारणोक्तौ [6]प्रत्यर्थे वार्थी जात तस्यैव साध्ययोगेन पूर्ववादित्वात् ।

[1] उभयोर्लिखिते भृत्ये—क, छ; वाक्ये—म, ल ।
[2] अनुमन्तात्र—क, छ ।
[3] भूम्यादिव्यतिरिक्तऋणादानविषयम् । अत्र—ख ।
[4] आत्मन्यभावात्—क, छ ।
[5] अर्थी ग्रह—क ।
[6] प्रत्यर्थ्यपि अर्थी—क; प्रत्यर्थ्येवार्थी—ख ।

था च **कात्यायनः**—

कारणात्पूर्वपक्षोऽपि ह्युत्तरत्व प्रपद्यते ।
अत· क्रिया सदा प्रोक्ता पूर्वपक्षप्रसाधिनी ॥

साध्यवादिन· क्रियेत्यर्थः ॥

:स्पतिः—

प्राड्न्याये कारणोक्तौ [1]च प्रत्यर्थी निर्दिशेत्क्रियाम् ।
मिथ्योक्तौ पूर्ववादी तु प्रतिपत्तौ न सा भवेत् ॥

तत्र कारणस्य साध्यत्वात्तन्निर्देशस्य प्रतिज्ञात्वमस्ति[2] । अतः तिवादिनोऽपि तस्मिन्नर्थे साधनं [4]युज्यत एव ।

ाचोक्त **नारदेन**—

सारस्तु व्यवहाराणा प्रतिज्ञा समुदाहृता ।
[5]तद्धानौ हीयते वादी तरस्तामुत्तरो भवेत् ॥

[6]एवमुक्तन्यायेनायं चतुष्पाद्व्यवहारो विवादेषु वक्ष्यमाणेषूपदर्शित· । वै 'व्यवहारान्नृप [7]पश्येत् विद्वद्भि·' इत्युक्तम्, संप्रतिपत्तौ[8] तु ननिरपेक्षत्वात्[9] विवाद ।

[1] तु—क, ख ।
[2] मप्यस्ति—क, ख ।
[3] प्रतिज्ञा —क ।
[4] प्रयुज्यत—छ ।
[5] तद्धीनो—अ ; तथासौ—म ।
[6] मुक्तेन न्याये—क ।
[7] पश्येदित्युक्तम्—क ।
[8] पत्तौ साधन—क ।
[9] द्द्विपाद — ख, म , द्विपदाम्—ग ।

तथा च **बृहस्पतिः**—

मिथ्योक्तौ तु चतुष्पात्स्यात् प्रत्यवस्कन्दने तथा ।
प्राङ्न्याये [1]च स विज्ञेयो द्विपात्संप्रतिपत्तिषु ॥

[2]अत्र **कात्यायनः**—

[3]पूर्वपक्षोऽप्युत्तरश्च प्रत्याकलितमेव च ।
क्रियापादश्च विज्ञेय· चतुष्पात्समुदाहृतः ॥

तत्र व्यवहारमातृकाया[4] **याज्ञवल्क्येन**—

'प्रत्यर्थिनोऽग्रतो लेख्यं' इति प्रतिज्ञोक्ता । 'श्रुतार्थस्योत्तरं लेख्यं, इत्युत्तरं । 'ततोऽर्थी लेखयेत्' इति '[5]प्रत्याकलितम्' । अर्थिप्रत्यर्थिनो· नतिसाधनमस्य वा [6]भवतीति विमर्श. प्रत्याकलितमुच्यते । प्रतिज्ञातार्थ-[7]साधकमिति 'क्रिया' । 'तत्सिद्धौ सिद्धिमाप्नेति' इति तद्व्यवहारफलम् । ञ्चित् प्रत्याकलितं विहाय जयपराजयावेवैकपाद इति मन्यन्ते । तदयुक्तम् । ायादेर्व्यवहारफलत्वात् सप्रतिपत्तावपि जयस्य विद्यमानत्वात् [8]त्रिपात्प्रसङ्गः ।

नु **नारदे**नान्यथा चतुष्पात्त्वमुक्तम्—

धर्मश्च व्यवहारश्च चरित्रं राजशासनम् ।
चतुष्पाद्व्यवहारोऽयमुत्तरः पूर्वबाधक· ॥ इति ।

[1] तु त्रिपात्—क, छ ।
[2] तत्र—क, छ ।
[3] पूर्वपक्षश्चोत्तर तु—क, च, छ; पूर्वपक्षोत्तरश्चैव—ख, ल ॥
[4] काया राज्ञे आवेदयेदिति प्रत्याकलित—ख ।
[5] प्रमाकल्पितम् । अर्थिप्रत्यर्थिनौ प्रति—क ।
[6] भवतीति प्रत्या—क ।
[7] साधनं—क, ख ।
[8] त्रिपात्वप्रसङ्गः—क; त्रिपात्प्रसङ्गात्—ख, ल ।

मैवं । 'चतुष्पाद्व्यवहार.' चतुष्प्रकारो व्यवहार इत्यर्थः । अत एव 'उत्तरः पूर्वबाधक' इत्युक्तम् ॥

[1]अथ **कात्यायनः** सन्धिमाह—

पूर्वोत्तरे तु लिखिते प्रक्रान्ते कार्यनिर्णये ।
द्वयो. सन्तप्तयो सन्धि. स्यादयःखण्डयोरिव ॥
साक्षिसभ्यविकल्पश्च भवेद्यत्रोभयोरपि ।
डोलायमाने कार्ये च [2]तत्र सन्धि· [3]प्रवर्तते ॥
प्रमाणसमता यत्र भेदःशास्त्रचरित्रयो. ।
तत्र राजाज्ञया सन्धिरुभयोरपि शस्यते ॥

बृहस्पतिः—

यत्र [4]साशयिको धर्मो व्यवहारश्च पार्थिवे ।
सन्धिस्तत्र तु कर्तव्योऽयसो [5] सन्तप्तयोर्यथा[6] ।
सम· सन्धिस्तदा[7] कार्यो विषमस्तु निवर्तने ॥

व्यवहारमातृकामुक्त्वा विभज्य [8]पदान्याह—

[1] सन्धिमाह कात्यायन·—क, छ ।
[2] तेन—क ।
[3] प्रशस्यते—क ; प्रदृश्यते—ख, ग ।
[4] सशयितो—क ।
[5] द्वयोः—क ।
[6] स्तदा—क ।
[7] सदा—क ; तथा—च, ज ।
[8] वर्ज्यानाह—म ।

याज्ञवल्क्यः—

अभियोगमनिस्तीर्य नैनं प्रत्यभियोजयेत् ।
अभियुक्तं न चान्येन नोक्त विप्रकृतिं नयेत् ॥

अभियुक्तोऽभियोगमनिस्तीर्याभियोक्तार नाभियोजयेत् । अन्येन युक्तं वा नाभियुञ्जीत । युगपद्व्यवहारद्वयासम्भवात् । तथा आवेदन यदुक्तं तद्विप्रकृतिमन्यथाभावं भाषाकाले न नयेत् । [1]अन्यवादिन· परा प्रसङ्गात् ॥

तत्र **नारदः**—

पूर्ववादं परित्यज्य योऽन्यमालम्बते [2]नर. ।
वादसङ्क्रमणाज्ज्ञेयो हीनवादी स वै नर. ॥

अभियोगमनिस्तीर्यापि प्रत्यभियोगमाह—

कुर्यात्प्रत्यभियोगं तु कलहे साहसेषु च ।

'कलहे साहसेषु च' अवश्यमभियोगमनिस्तीर्यैव प्रत्यभियो दातव्यः । अहमनेन पूर्वमाहत· शप्तो वेति । यस्मात्प्रथमप्रवृत्तस्य गुरुत दोष· ।

तथा च **नारदः**—

पूर्वमाक्षारयेद्यस्तु [3]नियत स्यात्स दोषभाक् ।
पश्चाद्यः सोऽप्यसत्कारी पूर्वे तु विनयो गुरु· ॥

[1] अन्यायवादिनः—ल ।
[2] पुनः—क, ख, ग ।
[3] नियतः—क ।

तत्र प्रत्यभियोगानुगुणो [1][अर्थिवादो दातव्य इत्याह] **नारदः—**

यस्य [2]वाऽप्यधिका पीडा कार्ये [3]वाऽप्यधिकं भवेत् ।
[4]तस्यार्थवादो दातव्यो न यः पूर्वं निवेदयेत् ॥

तेन प्रत्यभियोगकर्तुरेव 'अर्थिवाद' अभियोगवादो दातव्यः, न र्वाभियोक्तु', आधर्यप्रत्यवस्कन्दनवच्च तस्याधर्यमुत्तरं प्रतिज्ञा चेति वक्तव्यम्। त्कार्थेन तु सोत्तरत्वेन साध्यत्वम् । प्रतिज्ञार्थस्यैव साध्यत्वात् प्रत्यभियोगेन र्तुरेवार्थिवादो दातव्यः । अभियोगवादो न पूर्वाभियोक्तुः । आधर्य-यवस्कन्दनवच्च तस्याधर्यमुत्तरं प्रतिज्ञा चेति वक्तव्यम् । [5]उत्तरत्वेन ध्यता, प्रतिज्ञातार्थस्यैव साध्यत्वात् ।

ा च **कात्यायनः—**

वादिना यदभिप्रेतं स्वय साधयितु स्फुटम् ।
[6]तत्साध्यं साधनं येन तत्साध्यं साध्यतेऽखिलम् ॥

[7]**अथ प्रतिज्ञा** । [8]अथ प्रतिज्ञातं प्रतिज्ञाद्वयमेकस्मिन् वादे युक्त-यते । एतदुभयरूपमुत्तरं प्रतिज्ञा चेति । [9]एत**द्बृहस्पतिना** स्पष्टमुक्तम्—

[1] [ ]—क, छ, ल ।
[2] अभ्यधिका—क ।
[3] अभ्यधिकं—क ।
[4] अर्थिवादः—ख ।
[5] उत्तरत्वेनापि साध्यताम्—ख ।
[6] तत्साध्यसाधन—क, छ ।
[7] अतः प्रतिज्ञातं प्रति द्वयमेतस्मिन् विवादे युक्तमुच्यते—क ।
[8] तदानप्रतिज्ञाद्वयमेकस्मिन वादे युक्तम्—ख ।
[9] एतच्च—क ।

अनुक्त्वा कारणं यत्र पक्ष वादी प्रपद्यते ।
प्रतिपत्तिस्तु सा ज्ञेया कारण तूत्तरं पृथक् ॥

यदि कारणनिरपेक्षमभ्युपगच्छति[1] तदा सप्रतिपत्ति । कार[2]पुनरभिहिते उत्तरमन्यदुभयरूपं [3]कारणं प्रतिज्ञा चेति कारणस्य साध्यत्वात प्रतिज्ञातत्वमविरुद्धम्[4] । [5]पूर्वविप्रतिज्ञातार्थस्याभ्युपगमे साधन साध्यत्वा पादकत्वात् हेतुत्वमपि युक्तम् । तेन प्रत्यभियोगे आधर्ये प्रत्यवस्कन्दने च समानो न्याय. ॥

याज्ञवल्क्य: —

निह्नवे भावितो दद्याद्धन राज्ञे च तत्समम् ।
मिथ्याभियोगी द्विगुणमभियोगाद्धन[6] वहेत्[7] ॥

[8]यदनेन लेखित [9]मिथ्येति [10]' निह्नवे ' लेख्यादिभि: पूर्ववादिना ' भावितो ' दद्यात् । ' धनं ' ' तत्सम ' दण्डरूपेण राज्ञेऽपि । अथ भावयितुं न शक्नोति, [11]तदा ' मिथ्याभियोगी द्विगुण ' दण्डं राज्ञे दद्यादिति ।

[1] गच्छते—क ।
[2] त्वभिहिते—क, छ, णत्वेनाभिहिते—म ।
[3] कारण प्रतिज्ञा चेति न दृश्यते—क ।
[4] मप्यविरुद्धम्—क ।
[5] पूर्वप्रतिज्ञातार्थाभ्युपगमे—क, ख, छ, म ।
[6] योक्ता—अ, ग ।
[7] हरेत्—ख, ग, ल ।
[8] अनेन—क ।
[9] तन्मिथ्येति—क ।
[10] निह्नवे भाविते—च ।
[11] तथा—क ; तथा हि—ख ।

[1]**याज्ञवल्क्यः**—

निह्नुते लिखितं नैकमेकदेशविभावितः ।
दाप्यः सर्वं नृपेणार्थं न ग्राह्यस्त्वनिवेदितः ॥

नैक' अनेकं सुवर्णरजतवस्त्रादिकं, 'लिखितं' अभियुक्तं, प्रत्यर्थी
ादि सर्वमेव 'निह्नुते' अवजानीते, तदाऽर्थिना एकदेशभू[2]तहिरण्यादिक-
न्यद्वा साक्ष्यादिभिः [3]प्रत्यर्थी भावितोऽङ्गीकारितः तदा सर्वं पूर्वलिखित-
र्थिने 'नृपेण दाप्यः' । पूर्वं भाषाकाले अर्थिना '[4]अनिवेदितः'
श्चात्पूर्वं मया [5]विस्मृत इति भाषाकाले निवेद्यमानोऽर्थो 'न [6]ग्राह्यः' ।

था च **नारदः**—

अनेकार्थाभि[7]युक्तेन सर्वार्थव्यपलापिना ।
विभावितैकदेशेन देयं यदभियुज्यते ॥

[**बृहस्पतिः**—

सर्वापलापं यः कृत्वा [10]तथोऽल्पमपि संवदेत् ।
सर्वमेव तु दाप्यः स्यादभियुक्तो **बृहस्पतिः** ॥]

[1] अथ विभावितैकदेशन्यायः—अधिकं दृश्यते—म, ल ।
[2] भूतं हिरण्यमन्यद्वा साक्ष्यादिभिः प्रत्यर्थी—क, च, ज ।
[3] प्रत्यर्थिना—ख, ग, अङ्गीकरोति—म ।
[4] विनिवेदितः—क ।
[5] विस्मित इति निवेद्यमानोऽर्थो न ग्राह्यः । नारदः—क ।
[6] ग्राह्यः न दाप्यः—ख ।
[7] अभियोगे तु सर्वार्थव्यपलायना—क ।
[9] [ ]—क, छ, म, ल ।
[10] मिथोऽल्प—म, ल ।

यत्तु **कात्यायन**वचनम्—

अनेकार्थाभियोगे तु यावत्ससाधयेद्धनी ।
साक्षिभिस्तावदेवासौ लभते [1]साधित धनम् ॥ इति ।

तत्पुत्रादिदेयपित्राद्यृणविषयम् ।

'पुत्रपौत्रैर्ऋणं देयं निह्नवे साक्षिभावितम् ।'

इति वचनात् । यदपीद **कात्यायन**वचनम्—

ऋणादिषु विवादेषु स्थिरप्रायेषु निश्चितम् ।
ऊने [2]वाऽप्यधिके वार्थे प्रोक्ते साध्यं न सिद्धयति ॥

इति, [3]तत् सर्वार्थसाधनतयोपन्यस्तैः साक्ष्यादिभिरेकदेशाभिधाने काभिधाने वा साध्य न सिद्धयतीति निश्चितमिति सम्बन्धः । साह तु, सकलसाध्यसाधनतयोद्दिष्टैः[4] साक्षिभिरेकदेशेऽपि साधिते कृत्स्न सिद्धं भवत्येवेति ।

कात्यायनः[5]—

साध्यार्थांशेऽपि [6]गदिते साक्षिभि [7]सकल भवेत् ।
स्त्रीसङ्गे साहसे चौर्ये यत्साध्य [8]परिकीर्तितम् ॥

[1] नाधिक धनम्—क, छ ।
[2] वाऽभ्यधिके—क ।
[3] तत्सार्वार्थसाधनैश्चोपन्यस्तै—म ।
[4] साधकतथोद्दिष्टैः—क, छ, म ।
[5] कात्यायन आह—क, छ ।
[6] गणिते—क, छ ।
[7] सफल—ख ।
[8] परिकीर्तितम् । इति—क, छ ।

गाज्ञवल्क्य.—

सर्वेष्वर्थविवादेषु [1]बलवत्युत्तरा क्रिया ।
आधौ प्रतिग्रहे क्रीते [2]पूर्वा तु बलवत्तरा ॥

क्रियत इति 'क्रिया' कार्यम् । ऋणादिषु 'सर्वेष्वर्थविवादेषु' उत्तर बलवत् । ग्दाहरणं तु—कश्चिच्छतं मत्तो गृहीतमिति ग्रहणं साधयति, अन्यस्तु तिप्रदान [3]साधयति, उत्तरं प्रतिपादनं बलवदिति तत्साधनात् तद्वादी ायी भवति । पूर्वकार्ये सिद्धेऽपि तद्वादी पराजितो भवति । [4]आध्यादि- ात्रेषु एकमेव क्षेत्रमेकस्याधिं कृत्वा पुनरप्यन्यस्य करोति चेत्, पूर्वस्यैव द्भवति नोत्तरस्येति[5] ।

साक्षिषूभयत' सत्सु साक्षिण पूर्ववादिनः ।
पूर्वपक्षेऽधरीभूते भवन्त्युत्तरवादिन' ॥

[6]तत्रैकस्मात्पुरुषात् एतत्क्षेत्रं[7] प्रतिग्रहेण लब्धमित्येको वक्ति । ान्योऽपि तथैव । [8]उभयत्र साक्षिसद्भावेऽपि, तत्र 'पूर्ववादिन.' साक्षिणो वन्ति । तत्र पूर्वपक्षो यद्यधरीकृत', सत्यमेतस्यैव पूर्वं दत्तं, किंतु एतस्यैव स्तात् क्रयेण राज्ञा गृहीत्वा मह्यं दत्तमित्युक्ते, भवन्त्युत्तरवादिनोऽपि ाक्षिण ।

[1] चलय—क ।
[2] पूर्वैव—मुद्रित चौखाम्बा पुस्तके पृष्ठ ४२४.
[3] साधयति—नास्ति—क, छ ।
[4] आध्यादिषु तु एक—क ।
[5] इति—नास्ति—क ।
[6] यत्रैकस्मात्—क, छ ।
[7] क्षेत्र—नास्ति—क ।
[8] तत्र पूर्ववादिनः साक्षिणो भवन्ति, तत्र यदि पूर्वपक्षोऽधरीकृत:—क ।

[1]अथ वादिप्रतिवादिनोर्दुष्टलक्षणान्युच्यन्ते ।

तत्र **नारदः**—

आकारैरिङ्गितैर्गत्या चेष्टया [2]भाषणेन च ।
नेत्रवक्त्रविकारैश्च गृह्यतेऽन्तर्गतं मनः ॥
कम्प स्वेदोऽथ वैवर्ण्यमोष्ठशोषाभिमर्शने ।
[3]भूलेखनं स्थानहानिः तिर्यगूर्ध्वं निरीक्षणम् ॥
स्वरभेद[4]श्च दुष्टस्य चिह्नान्याहुर्मनीषिण. ।

याज्ञवल्क्यः—

देशाद्देशान्तर याति सृक्किणी परिलेढि च ।
ललाट स्त्रिद्यते चास्य मुखं वैवर्ण्यमेति च ॥
परिशुष्यत्स्खलद्वाक्यो विरुद्ध बहु भाषते ।
वाक्चक्षु. पूजयति नो तथोष्ठौ निर्भुजत्यपि ॥
स्वभावाद्वि[5]कृतिं गच्छेत् मनोवाक्कायकर्मभि ।
अभियोगे [6]तथा साक्ष्ये दुष्ट· स परिकीर्तितः ॥

आसन्नपराजयमनस्कस्य बलादेतानि चिह्नानि भवन्तीत्यभिप्रायः[7]

[1] वादिप्रतिवादिनोर्दुष्टलक्षणान्याह नारद —क, छ ।
[2] भाषितेन --क, छ ।
[3] भूलेखक-—क, च, छ, ज ।
[4] भेद च—क ।
[5] विकृतं—क ।
[6] ऽथवा—क, ख , च—मुद्रितचौखाम्बापुस्तके पृष्ठं ४२१ ।
[7] प्रायः । सापदेश हरेत्कालम्—क ।

नारदः—

सापदेशं हरन् कालमब्रुवंश्चापि संसदि ।
उक्त्वा वाचो विब्रुवश्च हीयमानस्य लक्षणम् ॥[1]

मनुः—

अदेश्य यश्च दिशति निर्दिश्यापह्नुते च यः ।
यश्चाधरोत्तरनर्थान्विहीनान्नावबुद्ध्यते ॥
अपदिश्यापदेश्यं च [2]पुनर्यस्त्वपधावति ।
सम्यक्[3]प्रणिहितं चार्थं पृष्टः सन्नाभिनन्दति ॥
ब्रूहीत्[4]युक्तश्च न ब्रूयात् उक्तं च न विभावयेत् ।
न च पूर्वापरं विद्यात् तस्मादर्थात्स हीयते ॥
सन्ति ज्ञातार इत्युक्त्वा दिशेत्युक्तो [5]दिशेन्नयः ।
धर्मस्थः कारणैरेतैः हीनः [6]तमपि निर्दिशेत् ।
[7]अभियोक्ता न चेत् ब्रूयाद्बध्यो दण्ड्यश्च धर्मतः ॥
[8]न चेत् त्रिपक्षात्तद्ब्रूयात् धर्मं प्रति पराजितः ।

बृहस्पतिः—

साक्षिणस्तु समुद्दिश्य यस्तु तां न विभावयेत् ।
त्रिंशद्रात्रात् त्रिपक्षाद्वा तस्य हानिः प्रजायते ॥

[1] हीयमानः प्रकीर्तितः—क ।
[2] पुनर्यस्तूपधावति—क, अभिधावति, म, ल ।
[3] प्रणिहितश्चार्थं—क ।
[4] उक्तं च—क ।
[5] दिशन्नयम्—अ ।
[6] तमभि—क ।
[7] अभियुक्तो—क ।
[8] न स—क ।

कात्यायनः—

सारभूतं पदं मुक्त्वा [1]ह्यसाराणि बहून्यपि ।
संसाधयेत क्रियाया तु ता जह्यात्सारवर्जिताम् ॥

नारदः—

निर्णीते व्यवहारे तु प्रमाणं [2]निष्फलं भवेत् ।
लिखित साक्षिणो वाऽपि पूर्वमावेदितं न चेत् ॥
यथा पक्वेषु धान्येषु निष्फला. प्रावृषो गुणा· ।
निर्णीतव्यवहाराणा प्रमाणमफल तथा ॥

[3][इति वादिप्रतिवादिनोर्दुष्टलक्षणानि ।]

अथ क्रियापादः

भत्र बृहस्पतिः—

द्विप्रकारा क्रिया प्रोक्ता मानुषी दैविकी तथा ।
एकैकानेकधा भिन्ना ऋषिभिस्तत्त्ववेदिभि[4]· ॥

[1] त्वसाराणि—क, ख ।
[2] अफल—क ।
[3] [ ] छ ।
[4] तत्वदर्शिभिः—क ।

[1]साक्षिलेख्यानुमानं च मानुषी त्रिविधा स्मृता ।
षटाद्या धर्मजान्ता च [2]दैवी नवविधा [3]क्रिया ॥
[4]साक्षी द्वादशभेदश्च लिखितं दशधा स्मृतम् ।
अनुमान तु द्विविधं दैविकी नवधा क्रिया ॥

'अनुमानं तु द्विविधं' इत्यर्थापत्त्यनुमानयोर्ग्रहणम् । तथाहि-- 'भुक्ति' कैश्चिद्विशेषणैर्विशिष्टा [5]स्वत्वहेतु. । [6]सा तु क्रयसाक्षिलेख्यादिकमव्यभिचारादनुमापयति । अनुपपद्यमाना वा कल्पयतीत्यनुमानं द्विविधमिति भुक्तिरेवोक्ता ।

तत्र **कात्यायनः**—

[7]साक्षिणो लिखितं भुक्ति. प्रमाणं त्रिविधं विदुः ।
लिङ्गोद्देशस्तु [8]युक्तिस्तु दिव्याद्यग्निविषादय ॥
ऋणे लेख्य साक्षिणो वायुक्तिलेशादयोऽपि वा ।
दैविकी वा क्रिया प्रोक्ता प्रजानां हितकाम्यया ॥

'दैविकी वा' इति न पूर्वैस्तुल्यविकल्प· । किंतु [9]पूर्वप्रमाणाभाव एव ।

[1] लेख्य साक्ष्यनुमानं च मानुषी त्रिविधा क्रिया—क ।

[2] दैविकी नवधा स्मृता—म ।

[3] स्मृता—क ।

[4] लिखित दशधा भिन्न भेदाद्द्वादश साक्षिणाम्—क, छ, म ।

[5] सत्यहेतु·—ख ।

[6] इह तु क्रियादिकमव्यभिचारेणानुमापयत्—क, सा तु वैदिकसामग्र्यव्यभिचारादनुमापयति—ख ।

[7] लिखित साक्षिणो भुक्ति·—क ।

[8] भुक्तिः स्यात दिव्यान्यग्निविषादयः—क, छ, म ।

[9] प्रमाणाभाव एव—ख ।

तथा च **याज्ञवल्क्यः**—

प्रमाणं लिखितं भुक्तिः साक्षिणश्चेति कीर्तितम् ।
एषामन्यतमाभावे दिव्यान्यतममुच्यते ॥

तथा च **नारदबृहस्पती**—

दिवा कृते कार्यविधौ ग्रामेषु नगरेषु च ।
सम्भवे साक्षिणा चैव न दिव्या भवति क्रिया ॥

तत्र **कात्यायनः**—

क्रिया न दैविकी प्रोक्ता विद्यमानेषु साक्षिषु ।
लेख्ये च सति वादेषु न स्याद्दिव्यं न साक्षिण[1] ॥

तथा च **व्यासः**[1]—

सम्भवे साक्षिणा प्राज्ञो दैविकीं वर्जयेत् क्रियाम् ।
सम्भवे तु प्रयुञ्जानो दैविकीं हीयते ध्रुवम् ॥

विशेषमाह **कात्यायनः**—

यद्येको मानुषीं ब्रूयादन्यो ब्रूयात्तु दैविकीम् ।
मानुषीं तत्र गृह्णीयान्न तु दैवीं क्रियां नृपः ॥

धिकारिणं प्राप्तयोर्वादिप्रतिवादिनोरेको मानुषीं क्रियामवलम्बते । अपरस्तु म् ।

तत्र मानुष्येव ग्राह्येति नियम्यते । [2]तथा—

यद्येकदेशव्याप्तापि क्रिया विद्येत मानुषी ।
सा ग्राह्या न तु पूर्णाऽपि दैविकी वदता नृणाम् ॥

[1] लेखनसमये साक्षिणः । तथा च व्यासः । व्यासपद्य न दृश्यते—क ।
[2] तथा—नास्ति—क ।

यत्रापि [1]कृत्स्नेन दैवसम्भव, एकदेशे मानुषसम्भव, तत्रापि न दैवमाश्रयणीयम्। उदाहरणं तु— रूपकशतमनया वृद्ध्या मत्तो गृहीत्वा याच्यमानो न प्रयच्छतीत्यभियोगापह्नवे उत्तरवादिना कृते, ग्रहणे साक्षिणः [2]सन्ति, न सङ्ख्यायां, वृद्धिविशेषे वा, [3]तत्र न दिव्येन वृद्धिसङ्ख्ययो साधनं, नापि [4]निह्नववादिनः कृत्स्ने दिव्यनिवेशः, एकदेशविभावितन्यायेनापि स्वरूपे साक्षिभिर्भाविते[5] सङ्ख्यावृद्धिविशेषसिद्धे न दिव्यस्यावकाशः।
[6]यत्तु—

गूढसाहसिकानां तु प्राप्तं दिव्यैः परीक्षणम्।
युक्तिलेशेङ्गिताकारवाक्चक्षुश्चेष्टितैर्नृणाम्॥

इति, तदपि मानुषासम्भवे नियमपरम्। तस्मात्सर्वत्र मानुषासम्भवे दिव्येन निर्णय इति।

लेख्यसाक्षिभुक्तिदिव्यादीनां व्यवस्थापकानि वचनान्युच्यन्ते।

तत्र **बृहस्पतिः**—

वाक्पारुष्ये च भूमौ च दिव्यं तु परिवर्जयेत्।
[7]विक्रयादानसम्बन्धे क्रीत्वा[8] धनमनिच्छति।
द्यूते समाह्वये चैव विवादे समुपस्थिते॥

[1] कृत्स्ने—क।
[2] सम्भवन्ति—क, ख, छ।
[3] तत्र न वृद्धिसङ्ख्ययोर्दिव्येन—ख।
[4] निह्नवे वादिन—क, छ।
[5] स्साधिते—क, छ।
[6] यत्र—क, छ।
[7] विक्रिया—क, ख।
[8] क्रेतुः—क, ख।

साक्षिणः साधनं प्रोक्तं न दिव्यं न च लेख्यकम् ।
पूगश्रेणिगणादीनां या स्थितिः परिकीर्तिता ॥
तस्यास्तु साधनं लेख्यं न दिव्यं न च [1]साक्षिणः ।
द्वारमार्गक्रियाभोगजलवाहादिके तथा ॥
भुक्तिरेव तु गुर्वी स्यान्न [2]लेख्यं न च साक्षिणः ।

अत्र **व्यासः**—

रहःकृतं प्रकाशं च द्विविधं कार्यमुच्यते ।
प्रकाशं साक्षिभिर्भाव्यं दैविकेन रहःकृतम् ॥

स्मृत्यन्तरे—

[3]वाक्पारुष्ये महीवादे निषिद्धा दैविकी क्रिया ।
प्रदातव्या प्रयत्नेन साहसेषु चतुर्ष्वपि ॥

इति ।

मनुष्यमारणचौर्यपरदारगमनवाग्दण्डपारुष्याणीति[4] [5]चतुर्विं साहसानि ।

[6][मनुष्यमारणं चौर्यं [7]परदाराभिमर्शनम् ।
पारुष्यमुभयं चेति साहसं स्याच्चतुर्विधम् ॥

इति **कात्यायनवचनादिति** ।]

[1] साक्षिणः ।
व्यासः—
रहःकृतं—ख ।
[2] दिव्य—म ।
[3] पारुष्ये च महीवादे—क ।
[4] दण्डपारुष्याण्यत्र चत्वारि साहसानि—क ।
[5] चतुर्विधानि साहसानि च—ख ।
[6] [ ] क, छ, म, ल ।
[7] परदारप्रधर्षणम्—ख ।

तथा—

यदा साक्षी न विद्येत विवादे वदतां नृणाम् ।
तदा दिव्यैः परीक्षेत शपथैश्च [1]पृथग्विधैः ॥
स्त्रीणां शीलाभियोगे च स्तेयसाहसयोरपि ।
[2]एवविधो विधिर्दृष्टः सर्वार्थापह्नवेषु च ॥
गूढसाहसिकाना तु प्राप्त दिव्यैः परीक्षणम् ।
[3]युक्तिलेशेङ्गिताकारवाक्चक्षुश्चेष्टितैर्नृणाम् ॥
दैवसाध्ये पौरुषेयं न लेख्यं वा प्रयोजयेत् ।

तथान्यत्र—

मणिमुक्ताप्रवालानां कूटकृन्न्यासहारकः ।
हिंसकोऽन्याङ्गनागेवी परीक्ष्यः शपथैः [4]सदा ॥
महापापाभियोगेषु निक्षेपहरणे तथा ।
दिव्यैः कार्यं परीक्षेत राजा सत्स्वपि [5]साक्षिषु ॥
समत्व साक्षिणा यत्र दिव्यैस्तत्र विशोधयेत् ।
प्राणान्तिकविवादेषु विद्यमानेषु साक्षिषु ॥
दिव्यमालम्बते वादी [6]पृच्छेत्तत्र न साक्षिणः ।
लिखिते साक्षिवादे च सन्देहो जायते यदा ॥
अनुमाने च संभ्रान्ते तदा दिव्यं न योजयेत् ।

[1] पृथग्विधैः । इति—क ।
[2] एष एव—क ।
[3] "युक्ति . नृणाम्" नास्ति—क, च, छ ।
[4] सदा, इति—क ।
[5] साक्षिषु, इति—क ।
[6] न पृच्छेत्तत्र साक्षिणः । इत्यादीनीति, तत्र लिखिते—क ।

ति **बृहस्पति**वचनात् ।

लिखिते शिथिलीभूते साक्षिणां च पराहतौ ।
युक्त्यभावे च दिव्यं स्यात् कारणत्रयमस्ति चेत् ॥

ते **कात्यायन**वचनाच्च[1] ।

[[2]एषामन्यतमाभावे दिव्यान्यतममुच्यते ।

ने **याज्ञवल्क्य**वचनाच्च । लिखितभुक्तिसाक्षिलेख्येष्वसत्स्वेव[3] दिव्यं देयम् ।

न्यथा—]

निरालम्बनवादप्रसङ्गादिति स्मृतेः—**धारेश्वरोद्योतनकृष्णादयो**
न्ते । एतच्च **भट्टकुमार विश्वरूप विज्ञानेश्वरादयो** न सहन्ते ।

[5]अप्रकाशविवादेषु दिव्याभावप्रसङ्गात् । तथा हि—

लिखितादिक्रिया वा स्याच्छपथ[6] दिव्यमेव वा ।
सर्वेषु[7] च विवादेषु योजयेद्दिव्यमेव वा ॥

प्राजापत्यवचनविरोधात् ।

एषामन्यतमाभावे दिव्यान्यतममुच्यते ।

[1] वचनात्—क ; स्मरणाच्च, ख ।
[2] [ ] क, छ, म, ल ।
[3] असत्येव—ख ।
[4] नान्यथा—म, ल ।
[5] अप्रशस्त—म, ल ।
[6] स्यात्प्रमाण दिव्यमेव वा—क, छ ।
[7] सर्वेष्वेव—क, छ ।

ते **याज्ञवल्क्यवचन**विरोधाच्च —

अत: सर्वार्थविवादेषु साक्ष्यादीना सम्भवेऽपि तैर्निर्णयाभावे तेषाम-भवे च दिव्यं [1]युक्तमेव । ननु कथं सर्वत्र दिव्यप्राप्ति: ।

स्थावरेषु विवादेषु दिव्यानि परिवर्जयेत् । इति ।[2]

।—

पारुष्ये च महीवादे निषिद्धा दैविकी क्रिया । [3]इति ।

।—

द्यूते समाह्वये चैव विवादे समुपस्थिते ।
साक्षिण. साधन प्रोक्तं न दिव्य न च लेख्यकम् ।। इति ।

।—

पूगश्रेणिगणादीनां या स्थिति: परिकीर्तिता ।
तस्यास्तु साधन लेख्यं न दिव्यं न च साक्षिण. ।।

मादिभिर्वचनैर्विवादविशेषेषु प्रमाणविशेषनियमात् । उच्यते— [5]एव-वचनानि विवादविशेषेषु लेख्यादिप्रमाणाविशेषप्राबल्यपराणि, न

[1] युक्तमेवेति—क, छ ।
[2] इति—न दृश्यते—क ।
[3] इति—न दृश्यते—क, म ।
[4] तथा—न दृश्यते—क, ख ।
[5] तानि वचनानि विवादविशेषेषु प्रमाणविशेषे प्राबल्यपराणि । न तु नि प्रमाणान्तरनिषेधपराणि । तथात्वे सर्वत्र प्रमाणाना प्रजापतिवचन ात् । अत: प्रमाणान्तरसम्भवे स्थावरेषु न दिव्यम् । तथा द्यूते समाह्वये क्षिसम्भवे न दिव्यम् , नापि लेख्यम् , तथा ऋणादिविवादेषु लेख्यसम्भवे देव्य न च साक्षिण ' इति नियम विवादान्तरेषु पराजितस्य तस्य गुण्यादिपणन कृत प्रमाणान्तरावलम्बन युक्तम्—क ।

पुनर्दिव्यादिप्रमाणान्तरनिषेधपराणि । तथात्वे सर्वत्र प्रमाणाना प्रापव वचनविरोधात् । अतः प्रमाणान्तरसम्भवे महीवादे न दिव्यं । तथ द्यूते समाह्वये चैव साक्षिसम्भवे न दिव्यं, नापि लेख्यं । तथा ऋणादि वादेषु लेख्यसम्भवे 'न दिव्यं न च साक्षिण' इति नियम । विवादान्तरे पराजितस्य दण्डद्वैगुण्यादिपणं कृत्वा प्रमाणान्तरावलम्बनं युक्तम् । महीवादादिषु पराजितस्य दण्डद्वैगुण्यकल्पनयाऽपि न दिव्यादिकल्पन-मि[1]त्यविरोधः ।

इति [2]श्रीमद्वरदराजीये व्यवहारनिर्णये व्यवहार[3]मातृकाकाण्डं समाप्तम् ।

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[1] मित्यादिविरोधः—क, ख, च, छ, ज ।

[2] वरदराजीये—क ।

[3] मातृकापदं समाप्तम्—ख ।

४. मानुषप्रमाणकाण्डम्

अथ प्रमाणान्युच्यन्ते

तत्र मानुष प्रमाणं [1]त्रिविध, लेख्यभुक्तिसाक्षिरूपेण ।

साक्षिलेख्यानुमानं च मानुषी त्रिविधा [2]स्मृता ।

इति बृहस्पतिवचनात् ।

[[3]तथा—

षाण्मासिकेऽपि समये भ्रान्तिः सजायते यतः ।
यत्राक्षराणि स्पष्टानि पत्रारूढान्यतः पुरा ॥
देशाचारयुतं वर्षमासपक्षाहवृद्धिमत् ।
ऋणिसाक्षिलेखकाना हस्ताङ्क लेख्यमुच्यते ॥]

तत्र लेख्य-—निरवद्यकर्तृलेखकसाक्षिहस्तलिप्यक्षरानुमितैः शब्दैः वाक्यार्थमवगमयतीति शाब्दं प्रमाणम् । [4]तत्रान्यहस्तलिखितस्य साक्षि-बहुत्वापेक्षा लेखकापेक्षा, कर्त्रपेक्षा च, लिखितसामग्रीशास्त्रनियमसिद्धा । स्वहस्तलिखितस्य लेखकसाक्ष्यनपेक्षा च शास्त्रनियमसिद्धा । साक्षिणश्च

[1] लेख्यसाक्षिभुक्तिरूपेण त्रिविधम्—क, छ ।
[2] क्रिया—क ।
[3] [ ] क, छ, म, ल ।
[4] हस्तलिखितस्य—क ।

शास्त्रोक्तनियमा स्वप्रत्यक्षादिप्रमाणमूलैः शब्दैरर्थमवगमयन्तीति शाब्दमेव प्रमाणम्। शास्त्रेण त्र्यवराः साधव इत्यादिनियमश्च[1] ज्ञान[2]प्रकार[3]दर्शनपरः।

अथ भुक्तिरुच्यते—

भुक्तिश्च पञ्चविधविशेषणविशिष्टा। स्वत्वहेतुभूतक्रयाद्यनुमानलिङ्ग[4]-कल्पकं वा ततश्च युक्तिलेशादिवद्भुक्तिरनुमानमर्थापत्तिर्वा, [5]प्रमाणमित्यभिप्रायः।

तत्र विशेषमाह **नारदः**—

> लिखितं बलवन्नित्यं जीवन्तस्त्वेव साक्षिणः।
> कालातिहरणाद्भुक्तिरिति [6]शास्त्रेषु निश्चयः॥

निरवद्यस्य लेख्यस्य सर्वदा बलवत्त्वम्। जीवदवस्थायामेव साक्षिणो बलवत्त्वम्। [7]चिरकालेऽतीते भुक्तेश्च बलवत्त्वम्।

[8]तत्र **प्रजापतिः**—

> राजकीयं जानपदं द्विविधं लिखितं स्मृतम्।
> शासनं राजदत्तादौ चीरकं स्यादृणादिषु॥

[1] श्चापि—क, छ।
[2] ज्ञात—अ।
[3] प्रदर्शन—क, छ।
[4] लिङ्गं विकल्पकं वा—क, ल।
[5] ततश्च शाब्दमनुमानमर्थापत्तिर्वा प्रमाणमिति—म।
[6] शास्त्रविनिश्चयः—क, छ।
[7] चिरकाले कृते बलवत्त्वमिति—क, छ।
[8] अत्र—क, छ।

राज्ञा दत्ते कृत लेख्य राजशासनमुच्यते ।

[1]ऋणादिषु [2]विवादेषु जानपदं लेख्य ' चीरकं ' इत्युच्यते ।

तत्र राजशासनस्य लक्षणमाह—

राज्ञा स्वहस्तचिह्नेन सन्धिविग्रहलेखकैः ।
लिखितं राजनामाङ्कं मुद्रितं राजमुद्रया ॥
समासासतदर्थाहोनामजात्यादिचिह्नितम् ।
स्पष्टवर्णक्रमोपेतमविलुप्तक्रमाक्षरम् ॥
राजशासनमेतत्स्यादुत्तमं सर्वलेख्यतः[3] ।

तत्र व्यासः—

राज्ञा तु स्वयमादिष्टः सन्धिविग्रहलेखकः ।
ताम्रपट्टे पटे वाऽपि प्रलिखेद्राजशासनम् ॥
चीरकं नाम लिखितं प्रधानैः पौरलेखकैः ।
अर्थिप्रत्यर्थिमध्यस्थसमामासादिसंयुतम् ॥

राजस्थाने नियुक्तकायस्थादिकृत [4]तदध्यक्षकरचिह्नितम् राजहस्तमुद्रया मुद्रित ' राजलेख्य ' इत्युच्यते । ' स्थानलेख्य ' तु ग्रामजनपदादिष्वधिकृतकायस्थकृत तदध्यक्षकरचिह्नित ' चीरक ' इत्युच्यते ।

[1] ऋणादिविषये जानपदकृतलेख्यं चीरकमुच्यते, इति, तत्रराजशासनलक्षणमाह—क ।

[2] विवादेषु लेख्य चीरकमुच्यते—ख ।

[3] लेख्यतः । इति—क ।

[4] अध्यक्षचिह्नितम्—क ।

अत्र विशेषमाह **बृहस्पतिः—**

राजलेख्यं स्थानकृतं स्वहस्तलिखितं तथा ।
लेख्यं तु त्रिविधं प्रोक्तं भिन्न तद्दशधा पुनः ॥
दानलेख्यं भागलेख्यं सीमालेख्यं [1]तथैव च ।
क्रयलेख्यं दासलेख्यमाधिलेख्यं ततः परम् ।
सविदुद्दामलेख्यं च जयपत्रकमेव च ॥
सन्धिपत्रं तथैवैतत् क्रियाभेदादनेकधा ।
भूमिं दत्वा तु यत्पत्रं कुर्याच्चन्द्रार्ककालिकम् ॥

[2][इत्युद्देशः ।

अथ लक्षणम् ।]

अनाच्छेद्यमनाहार्यं दानलेख्यं तु तत्स्मृतम् ।
विभागपत्रमित्येद्भागानां निर्णये कृतम् ॥
सीमाविवादे निर्णीते सीमापत्रमिति स्मृतम् ।
गृहक्षेत्रादिकं क्रीत्वा तुल्यमूलाक्षरान्वितम् ॥
पत्र कारयते यत्तु क्रयलेख्य तदुच्यते ।
[3]आध्यर्थमाधिलेख्य स्यादासार्थं दासपत्रकम् ॥
समीहितार्थसिध्यर्थं ग्रामश्रेणिगणादिभिः ।
शास्त्राविरोधि धर्मार्थे कृत सवित्तिपत्रकम् ॥

[1] तथापरम्—क ।
[2] [ ]—छ ।
[3] दास्यार्थं दासलेख्य स्यादाध्यर्थं चाधिलेख्यकम्—क, च, छ, ल ।

धन गृहीत्वा वृद्ध्यर्थं स्वय कुर्याच्च कारयेत् ।
उद्ग्रामपत्र तत्प्रोक्तमृणलेख्यं मनीषिभि· ॥

[[1]जयपत्रलक्षणमाह] **कात्यायनः**—

यथोपन्यस्तसाध्यार्थसयुक्तं सोत्तरक्रियम् ।
सावधारणकं चैव मुद्रितं राजमुद्रया ॥
[2]सभासन्यस्तचिह्नं च वादिप्रत्यर्थिसयुतम् ।
प्राड्विवाकादिहस्ताङ्क [3]जयपत्रकमिष्यते ।

[[4]सन्धिस्थलेख्यलक्षणमाह] **वृद्धवसिष्ठः**—

अर्थिप्रत्यर्थिवाक्यानि प्रतिज्ञा साक्षिवाक् तथा ।
निर्णयश्च तथा तस्य [5]यथा चावधृतं स्वयम् ॥
एतद्यथाक्षरं लेख्य यथापूर्वं निवेशितम् ।
चतुर्ष्वपि विवादेषु जयिने जयपत्रकम् ॥

कुलादिभिर्निर्णये जयपत्राभावान्निर्णयपत्रं [6]तत्र कार्यं, [7]प्रत्तपत्रमिति यावत् ।

तथा च **कात्यायनः**—

देशाचारविरुद्धं यत् व्यक्ताधिकृतलक्षणम् ।

[1] [ ]—छ ।
[2] सभासद्धस्तचिह्न—क, म ।
[3] जयपत्रमितीष्यते । अत्रवृद्धवसिष्ठः—क, च ।
[4] [ ]—छ ।
[5] यथाचारधृत—ख ।
[6] तत्कार्य—क ।
[7] वृत्तपत्र—ख ।

तत्प्रमाण स्मृतं लेख्यमविलुप्तक्रमाक्षरम् ।
सभासदश्च ये तत्र स्मृतिशास्त्रविदस्तथा ॥
यथालेख्यविदस्तद्वत्स्वहस्त[1] तत्र दापयेत् ।
[[2]अभियोक्ताभियुक्तानां वचनं प्राङ्निवेशयेत् ॥
सभ्याना प्राड्विवाकस्य [3]कुलाना वा ततः परम् ।
निश्चयं स्मृतिशास्त्राणां मत तत्रैव लेखयेत् ॥]
सन्धौ कृते तु यत्पत्रं सन्धिलेख्यं तदुच्यते ।

अथ करलेख्यम् ।

तत्र **कात्यायनः**—

देशाचारस्थितियुतं करलेख्यादिकं स्मृतम् ॥
समामासादिहीन तु प्रमाण तद्भवेत्पुनः ॥

अत्र विशेषमाह **याज्ञवल्क्यः**—

य. कश्चिदर्थोनिष्णातः स्वरुच्या तु परस्परम् ।
लेख्य तु साक्षिमत्कार्यं तस्मिन् धनिकपूर्वकम् ॥
समामासतदर्धाहोनामजातिस्व[4]गोत्रकम् ।
सब्रह्मचारिकात्मीयपितृनामादिचिह्नितम् ।
समाप्तेऽर्थे ऋणी नाम स्वहस्तेन निवेशयेत् ॥
मतं मेऽमुकपुत्रस्य यदत्रोपरि लेखितम् ।
उभयाभ्यर्थितेनैतन्मया ह्यमुकसूनुना ॥

[1] स्तेषा स्वहस्त—क, छ, म ।
[2] [ ]—क, छ, म, ल ।
[3] कुल्याना—म, ल ।
[4] स्वगोत्रकैः—क ।

लिखितं ह्यमुकेनेति लेखकस्त्वन्ततो लिखेत् ।
विनाऽपि साक्षिभिर्लेख्य स्वहस्तलिखित तु यत् ॥
तत्प्रमाणं स्मृतं [1]सर्वं बलोपधिकृतादृते ।
[2]ऋणं लेख्यकृतं देयं पुरुषैस्त्रिभिरेव तु ॥

था—

साक्षिणश्च स्वहस्तेन पितृ[3]नामादिपूर्वकम् ।
अत्राहममुकः साक्षी लिखेयुरिति[4] ते समा. ॥
अलिपिज्ञ ऋणी य स्याल्लेखयेत्स्वमतं तु स. ।
[5]साक्षी वा साक्षिणाऽन्येन सर्वसाक्षि[6]समीमतः ॥

समाप्ते लेख्ये ऋणी स्वहस्तेन [7]स्वनामलिप्ता लिपिं कुर्यात् । ़नन्तर लेखक', तदनन्तरं साक्षिण' । [8]अलिपिज्ञानामेतेषा स्वमतमन्येन ग्नीयम् । तत्र स्वहस्तलिखितं लेख्यं साक्षिभिर्विनापि प्रमाणम् । ालिपिज्ञेनान्येन लिखित साक्षिमदेव प्रमाणम् ।

[1] लेख्य—क ।
[2] ऋण लेख्य . . दृते—न दृश्यते—क ।
[3] नामकपूर्वकम्—क, ख ।
[4] रपि ते—क, छ ।
[5] साक्षिणा—क ।
[6] समीपगः—ख ।
[7] स्वनामलिप्ताम्—नास्ति—क, स्वनामयुक्ता—ख ।
[8] अलिपिज्ञैः स्वमतमन्येन साक्षिणा लेखनीयम्—क ।
[9] अलिपिज्ञं लेख्यमन्येन कृत—क ।

स्थावरे प्रक्रियाधाने विभागे [1]दाय एव च ।
प्रतिग्रहे च क्रीते च नालेख्या सिद्ध्यति क्रिया ॥

इति यदिदं **कात्यायनीय**वचनम्, तल्लेख्यप्राधान्यपरं, न [2]त्वन्यनिवृत्तिपरम् । [3][तथात्वे वचनान्तरविरोधात् । तत्रायमर्थः । उक्तेषु लेख्यविशेषणेषु यस्य यत्र दृष्टार्थत्वं तत्र तदादरणीयम् । नेतरत् । अदृष्टार्थत्वप्रसङ्गात् ।]

अथ [4]पुनर्लेख्यम्

तत्र **याज्ञवल्क्यः**—

देशान्तरस्थे दुर्लेख्ये नष्टोन्मृष्टे हृते तथा ।
भिन्ने दग्धे तथा छिन्ने लेख्यमन्यत्तु कारयेत् ॥

[5]पूर्वकृते लेख्ये व्यवहाराक्षमे अन्यत् लेख्यं कारयेदित्यर्थः ।

[6][**व्यासः**—

अप्रकाशाद्धि स्वकृतात्साक्षिमल्लेख्यकान्वितम् ।
स्वहस्तचिह्नितं लेख्यं श्रेष्ठमन्येन लेखितम् ॥]

[1] दान एव—क ।
[2] पुनर—अ ।
[3] [ ]—क, ख, च, छ, ज, म, ल ।
[4] लेख्यान्तरविधिः—अ ।
[5] पूर्व—क ।
[6] [ ]—क, छ, ल ।

ात्यायनः—

दर्शितं प्रतिकाल यच्छ्रावित स्मारितं तथा ।
लेख्य सिद्धयति सर्वत्र मृतेष्वपि हि साक्षिषु ॥

हस्पतिः—

न जातु हीयते लेख्य साक्षिभि· शपथेन वा ।
अदर्शनादश्रवणाद्धानि प्राप्नोत्युपेक्षया ॥
[[1]लेख्य त्रिंशत्समातीतमदृष्टाश्रावितं च यत ।
न लेख्यं सिद्धिमाप्नोति तिष्ठत्स्वपि हि साक्षिपु ॥
लेख्यस्य असिद्धहेतूनाह] **व्यासः—**

अश्रुतार्थमदृष्टार्थं व्यवहारार्थमागतम् ।
न लेख्य सिद्धिमाप्नोति जीवत्स्वपि हि साक्षिपु ॥

यत्रापि—

आधातरि तिरोभूतमाविर्भूत मृते सति ।
अनात्तवित्त तल्लेख्य प्रतिदत्तमथापि वा ॥

सः—

स्वहस्तैककृताज्जानपद तस्मात्तु शासनम् ।
प्रमाणतरमिष्टं हि व्यवहारार्थमागतम् ॥

न्यत्र—

देशाध्यक्षादिना लेख्य यत्र जानपद कृतम् ।
समकाल पश्चिम वा तस्माज्जानपद शुभम् ॥

[1] [ ]—क, छ ।
[2] [ ]—छ ।

लेखकसाक्षिणामत्यये तल्लिखितैः इतराक्षरैः संशयनिरासमाह **बृहस्पति**

अथ पञ्चत्वमापन्नो लेखकः साक्षिभिः सह ।
तत्स्वहस्तादिभिस्तेषां [1]विशुध्येत न संशयः ॥
लेख्ये संशयमापन्ने साक्षिलेखककर्तृभिः ।
दुष्टेषु तेषु तद्धस्तकृतपूर्वाक्षरादिभिः ॥
यथालाभोपपन्नैस्तैर्निर्णयं कारयेन्नृपः ।

[2]**नारदः—**

अश्रुतार्थमदृष्टार्थं व्यवहारार्थमागतम् ।
न लेख्यं सिद्धिमाप्नोति जीवत्स्वपि हि साक्षिषु ॥
ऋणिनो हस्तसन्देहे जीवतो वा मृतस्य वा ।
तत्स्वहस्तकृतैरन्यैः पत्रैस्तल्लेख्यनिर्णयः[3] ॥

[[4]**याज्ञवल्क्यः—**

सन्दिग्धलेख्यशुद्धिःस्यात्स्वहस्तलिखितादिभिः ।
युक्तिप्राप्तिक्रियाचिह्नसम्बन्धागमहेतुभिः ॥

सन्दिग्धे लेख्ये अन्यैस्तद्धस्तलिखितैः 'शुद्धिः'। आदिशब्दात् साक्षिलेखकहस्तलिखितान्तरसंवादाच्छुद्धिः । युक्त्या प्राप्तिः 'युक्तिप्राप्तिः' देशकालपुरुषाणां द्रव्येण सह सम्बन्धप्राप्तिः । अस्मिन् देशे अस्मिन्

[1] विशुध्येत्तन्न—क ।
[2] नारदः–अश्रुतार्थ . . . साक्षिषु–न दृश्यते—क, च, छ ।
[3] निर्णयः । कात्यायनः–दृष्टे पत्रे स्फुट—ख ।
[4] [　　　　]—क, छ ; 'म' पाठे उत्तरत्र दृश्यते ।

ऽे अस्य पुरुषस्य इद द्रव्य घटत इति 'युक्तिप्राप्ति'। 'क्रिया' क्रया तत्साक्ष्युपन्यास । 'चिह्न' असाधारणस्वस्वीकारादिति। 'सम्बन्धः' र्यप्रत्यर्थिनो. पूर्वमपि परस्परविश्वासेन दानग्रहणादिसम्बन्धः । 'आगम.' र्येतावतोऽर्थस्य संभावित. प्राप्त्युपाय· । एत एव 'हेतव'। एभिर्लेख्य-द्धरिति ।

यपरीक्षामाह कात्यायन·—]

दृष्टे पत्रे स्फुटं दोष नोक्तवान्तृणिको यदि ।
ततो विंशतिवर्षातिक्रान्त पत्र स्थिर भवेत ॥
शक्तस्य सन्निधावर्थो यस्य लेख्येन भुज्यते ।
वर्षाणि विंशतिर्यावत्तत्पत्रं दोषवर्जितम् ॥
स्त्रीबालार्तालिपिज्ञाना वञ्चयन्ति स्वबान्धवा· ।
लेख्यं कृत्वास्वनामाङ्क ज्ञेयं युक्त्याऽगमादिभि ॥

ास:—

यत्रान्यस्य कृत लेख्यमन्यहस्ते प्रदृश्यते ।
अवश्यं तत्र कर्तव्य पत्रस्यागमन तत. ॥]

ापतिः—

यन्नामगोत्रैस्तुल्य तु लेख्यक हि क्वचिद्भवेत् ।
अगृहीते धने तत्र कार्यो दिव्येन निर्णय· ॥

ः—

दर्पणस्थ यथाबिम्बमसत्सदिव दृश्यते ।
तथा लेख्यस्य बिम्बानि कुर्वन्ति कुशला नरा· ॥

[1] [ ]—क, छ ।
[2] प्रजापति.—यन्नाम . . . निर्णय·—नास्ति—क, च, छ ।
[3] सत्ससदि च—क ।

लेख्याकारेण लिखित [1]साक्ष्याकारेण साक्षिणः ।
असत्या सत्यसंकाशा सत्याश्चासत्यदर्शिन. ॥
दृश्यन्ते विविधा भावास्तस्माद्युक्तं परीक्षणम् ।

[[2]बृहस्पतिः—]

पुरुषा· सन्ति लोभाद्ये कार्यं प्रब्रूयुरन्यथा ।
सन्ति चान्ये दुरात्मान· कूटलेख्यकृतो नरा· ॥
अत· परीक्ष्यमुभयमेतद्राज्ञा विशेषतः ।

[[3]व्यासः—]

लेख्यमालेख्यवत्केचिल्लिखन्ति कुशला नरा ।
तस्मान्नलेख्यसामर्थ्यात् [सिद्धि] रैकान्तिकी मता ॥
[[4]जडमूकान्धबालस्त्री गणवृद्धार्तभीरुभिः ।

कात्यायनः]—

साक्षिदोषाद्भवेद्दुष्ट पत्रं वा [5]लेखक स्वयम् ।
धनिकस्योपधादोषात्तथा च ऋणिकस्य वा ॥
जडमूकान्धबालाज्ञक्रुद्धरोगार्तभीरुभि· ।
अस्वतन्त्रोपधादुष्टै. कृत लेख्यं न सिद्ध्यति ॥

[1] साक्ष्याचारेण—क, छ ।
[2] [ ]—क, छ ।
[3] [ ]—क ।
[4] [ ]—छ, म ।
[5] लेखकस्य वा—ख, म ।

समामासादिहीनं च देशाचारविरोधि च ।
विलुप्तक्रम[1]वर्णं च [2]शृङ्गहीनं च दुष्यति ॥

बृहस्पतिः]

दूषितो गर्हितः साक्षी यत्रैकोविनिवेशितः ।
कूटलेख्यं तु तत्प्राहुः लेखको वाऽपि तद्विध ॥
स्थानभ्रष्टाश्च मलिनाः सन्दिग्धा लक्षणच्युताः ।
यत्रैवं सुस्थिता वर्णा लेख्यं दुष्ट [4]तु तद्भवेत् ॥
यदुज्वलं चिरकृतं मलिनं स्वल्पकालिकम् ।
[5]भग्नोन्मृष्टाक्षरयुतं लेख्यं कूटत्वमाप्नुयात् ॥
एकमेव भवेल्लेख्यमेकस्यार्थस्य सिद्धये ।
अनेकेषु तु लेख्येषु दोषमुत्पादयेदपि ॥
[[6]देशाचारविरुद्धं यत्सन्दिग्धं क्रमवर्जितम् ।
कृतमस्वामिना यच्च साध्यहीनं च दुष्यति ॥]

यायनः—

साक्षिलेखककर्तारः कूटता यान्ति ते यथा ।
तथा [7]दोषा प्रयोक्तव्या [8]दुष्टलेख्यं च दुष्यति ॥

[1] ग्रहवर्ण—क ।
[2] ग्रहहीन—क ।
[3] [ ]—क ।
[4] तथा भवेत्—क, ख ।
[5] भग्नसृष्टा—क ।
[6] [ ]—क ।
[7] दोषात्—क ।
[8] दुष्टैर्लेख्य—क, ख ।

दुष्टैर्दुष्टं भवेल्लेख्यं शुद्धैः शुद्धं विनिर्दिशेत् ।
तत्पत्रमुपधादुष्टैः साक्षिलेखककारकैः[1] ॥

बृहस्पतिः—

उन्मत्तजडबालानां राजभीतप्रवासिनाम् ।
अप्रगल्भभयार्तानां[2] तल्लेख्यं हानिमाप्नुयात् ॥

[[3]बृहस्पतिः—

मुमूर्षुशिशुभीतार्तस्त्रीमत्तव्यसनातुरैः ।
निशोपधिबलात्कारकृतं लेख्यं न सिद्ध्यति ॥

व्यासः—

दासास्वतन्त्रबालैश्च स्त्रीकृतं चैव यद्भवेत् ।
प्रमाणं नैव तल्लेख्यमिति शास्त्रविदो विदुः ॥

मनुः—

यस्मिन् यस्मिन् विवादेषु कूटसाक्ष्यं कृतं भवेत् ।
तत्तत्कार्यं निवर्तेत कृतं चाप्यकृतं भवेत् ॥
योगाधमनविक्रीतं योगदानप्रतिग्रहम् ।
यत्र चाप्युपधिं पश्येत् तत्सर्वं विनिवर्तयेत् ॥
बलाद्दत्तं बलाद्भुक्तं बलाद्यच्चापि लेखितम् ।
सर्वान् बलकृतानर्थानकृतान्मनुरब्रवीत् ॥]

[1] कारणैः—ख; कर्तृभिः—ल ।
[2] तथार्तानां—क ।
[3] [ ]—क, छ, म ।

ाज्ञवल्क्यः—

बलोपधिविनिर्वृत्तान् व्यवहारान्निवर्तयेत् ।
स्त्रीनक्तमन्तरागारं बहि शत्रुकृतं तथा ॥

ारदः—

स्त्रीषु रात्रौ बहिर्ग्रामादन्तर्वेश्मन्यरात्रिषु ।
व्यवहार. कृतोऽप्येषु पुन कर्तव्यतामियात् ॥

ात्यायनः—[1]

लेख्यदोषास्तु ये केचित साक्षिणो वाऽपि ये स्मृताः ।
वादकालेपु वक्तव्या' पश्चादुक्तींस्तु वर्जयेत ॥

जापतिः—

यन्नामगोत्रैस्तुल्य हि लेख्यं कर्तुः कचिद्भवेत् ।
अगृहीते धने तत्र कार्यो दिव्येन निर्णयः ॥]

ाथा च **प्रजापतिः**—

लेख्ये कूटत्वमापन्ने सन्दिग्धे कार्यनिर्णये ।
असत्कृत्य च तल्लेख्यमर्थे [3]दिव्येन निर्णय' ॥

[1] अत्र पुन. लिखितानि—क ।

दृष्टे पत्रे स्फुट दोष नोक्तवानृणिको यदि ।
ततो विशतिवर्षेण क्रान्तं पत्रं स्थिर भवेत् ॥
शक्तस्य सन्निधावर्थो यस्य लेख्यं न भुज्यते ।
वर्षाणि विंशति यावत् तत्पत्र दोषवर्जितम् ॥

[2] तथा च प्रजापतिः—नास्ति—क, ख ।

[3] कार्येन—छ ।

[[1]कात्यायनः—

न मयैतत्कृतं पत्रं कूटमेतेन कारितम् ।
अधरीकृत्य तत्पत्रमर्थे दिव्येन निर्णयः ॥

अदुष्टलेखकर्तृलेखकसाक्षियुक्तं लेख्यमर्थस्यात्यन्तसाधकमिति], [[3]अन्यन्न साधकमिति ।][3]

इति लेख्यप्रकरणम् ।

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[4]अथ साक्षिणः

तत्र मनुः—

पृष्टोपव्ययमानस्तु कृतावस्थो धनैषिणा ।
त्र्यवरैः साक्षिभिर्भाव्यो नृपब्राह्मणसन्निधौ ॥

अपव्ययमानो ' विवदमान· । [' [5]कृतावस्थ: ' कृतावस्थान·, यथाऽसौ ाधिगच्छति तथा राज्ञा कृत इत्यर्थ. । तथा—]

यादृशा धनिभि कार्या व्यवहारेषु साक्षिण. ।
तादृशान् सम्प्रवक्ष्यामि यथावाच्यमृतं च तै ॥

[1] [ ]—क, छ ।
[2] [ ]—ख, म, ल ।
[3] पृष्ठम ९०-९१—सन्दिग्धे . . . . एभि· लेख्यशुद्धि.—म, ल, पाठ्यो: । लिखितानि ।
[4] अथ साक्षिप्रकरणम्—तत्र—क ।
[5] [ ]—क, छ ।

गृहिणः पुत्रिणो मौला क्षत्रविट्छूद्रयोनयः ।
अर्थ्युक्ताः साक्ष्यमर्हन्ति न ये केचिदनापदि ॥

[1]मौला.' कुलीना: [2]ग्रामश्रेष्ठाः प्रधानपुरुषा वा ।]

आप्ताः सर्वेषु वर्णेषु कार्याकार्येषु साक्षिणः ।
सर्वधर्मविदोऽलुब्धान् विपरीतास्तु वर्जयेत् ॥

ारदः—]

सन्दिग्धेषु च कार्येषु द्वयोर्विवदमानयोः ।
दृष्टश्रुतानुभूतत्वात् साक्षिभ्यो व्यक्तिदर्शनम् ॥
समक्षदर्शनात्साक्षी विज्ञेयः श्रोत्रचक्षुषोः ।

षा श्रोत्रेण वा सह मनोव्यापारो यस्यासौ 'साक्षी'। 'साक्षाद्द्रष्टरि-याम्' इति [[4]पाणिनि]स्मरणात्, साक्षाद्द्रष्टा साक्षी ।

त्र] **याज्ञवल्क्यः**—

तपस्विनो दानशीलाः कुलीनाः सत्यवादिनः ।
धर्मप्रधाना ऋजवः पुत्रवन्तो धनान्विताः ॥
त्र्यवरा साक्षिणो ज्ञेयाः श्रौतस्मार्तक्रियापराः ।
यथाजाति यथावर्णं सर्वे [6]सर्वासु वा स्मृताः ॥

[1] [ ]—क, छ ।
[2] ग्रामश्रेण्यादिषु—म ।
[3] [ ]—क ।
[4] [ ]—क ।
[5] [ ]—क ।
[6] सर्वेषु—क, सर्वसमा—ल ।

अन्यत्र [1][नारदः—]

कुलीना ऋजवः शुद्धा जन्मतः कर्मतोऽर्थतः ।
त्र्यवराः साक्षिणो ज्ञेयाः[2] शुचयश्च सुबुद्धयः ॥
ब्राह्मणाः क्षत्रिया वैश्याः शूद्रा ये चाप्यनिन्दिताः ।
प्रतिवर्णं [3]भवेयुस्ते सर्वे सर्वेषु वा [4]स्मृताः ॥
श्रेणिषु श्रेणिपुरुषाः स्वेषु वर्णेषु वर्गिणः ।
बहिर्वासिषु बाह्याः स्युः स्त्रियः स्त्रीषु च साक्षिणः ॥

पुनः **नारदः**—

एकादशविधः साक्षी शास्त्रे दृष्टो मनीषिभिः ।
कृतः पञ्चविधस्तेषां षड्विधोऽकृत उच्यते ॥
लेखितः स्मारितश्चैव यदृच्छाभिज्ञ एव च ।
गूढश्चोत्तरसाक्षी च कृतः पञ्चविधः स्मृतः ॥

अकृतानाह [5]**नारदः**—

अन्ये पुनरनिर्दिष्टाः साक्षिणः समुदाहृताः ।
ग्रामश्च प्राड्विवाकश्च राजा च व्यवहारिणाम् ॥
[6]कार्येष्वभ्यन्तरे यः स्यात् अर्थिना प्रहितश्च यः ।

[1] [ ]—क, म।
[2] अनिन्द्याः शुचयः शुद्धबुद्धयः—इति मुद्रितनारदस्मृतौ, कल्कत्ता।, युः सुबुद्धयः—इति अनन्तशयनमुद्रितनारदस्मृतौ पृष्ठम् ९७।
[3] प्रवेयुस्ते—अ ; भजेयुस्ते—ख।
[4] पुनः—अनन्तशयनमुद्रित नारदस्मृतौ पृष्ठ ९७।
[5] नारदः—नास्ति—क।
[6] अभ्यन्तरेष्वेव—अ ; अभ्यन्तरा ये च—ख।

कुल्याः कुलविवादेषु भवेयुस्तेऽपि साक्षिणः ।

स्पतिः—

लिखितो लेखितो गूढः स्मारितः कुल्यदूतकौ ।
यादृच्छिकश्चोत्तरश्च कार्यमध्यगतस्तथा ॥
नृपोऽध्यक्षस्तथा ग्राम. साक्षी द्वादशधा स्मृतः ।

नेन तु साक्षिणा कृतौ तल्लेख्येन विनिर्णयः ।

प्राड्विवाकप्रसिध्यर्थं मध्यस्थान् पूजयेत्ततः ।]
प्रभेदमेषा वक्ष्यामि यथावदनुपूर्वशः ।
जातिनामाभिलिखितं येन स्व पित्र्यमेव च ॥
निवासश्च स विज्ञेय. साक्षी लिखितसञ्ज्ञकः ।
सन्धिक्रिया क्रियाभेदैस्तस्य कृत्वा [2]ऋणादिके ॥
प्रत्यक्ष [3]लिखिते यश्च लेखितः स उदाहृतः ।
कुड्यव्यवहितोयस्तु श्राव्यते [4]ऋणभाषितम् ॥
विनिह्नुते यथाभूत गूढसाक्षी स कीर्तितः ।

।:—

[5]अर्थिनः स्वार्थसिद्ध्यर्थं [6]प्रत्यर्थिवचनम् स्फुटम् ।
य. श्राव्यते स्थितो गूढो गूढसाक्षी स उच्यते ॥

[1] [ ]—च ।
[2] त्वृणादिके—क ।
[3] लेख्यते—ख ।
[4] त्वृणभाषितम्—क ।
[5] अर्थिना—अ ।
[6] प्रत्यर्थ व—अ ।

बृहस्पति:—

आहूय य. कृत' साक्षी ऋणन्यासक्रियादिके
स्मार्यते च मुहु: कार्यं स्मारित: सोऽभिधीयते
विभागदाने विपणे ज्ञातिर्यत्रोपदिश्यते ।
द्वयो: ममानो धर्मज्ञ' कुल्य. स परिकीर्तित.
अर्थिप्रत्यर्थिवचनं शृणुयात्प्रेषितस्तु[1] य ।
उभयो. सम्मत. साधु: दूतक' स उदाहृत: ॥
क्रियमाणे तु कर्तव्ये य: कश्चित्स्वयमागत' ।
अत्र साक्षी त्वमस्माकमुक्तौ[2] यादृच्छिकस्तु स:
यत्र साक्षी दिशं गच्छन् मुमूर्षुर्वा यथाश्रुतम् ।
अन्यं संश्रावयेत्तत्तु विद्यादुत्तरसाक्षिणम् ॥
उभाभ्या यस्य विश्वस्त कार्यं चापि निवेदितम्
[3]गूढसाक्षी सविज्ञेय. कार्यमध्यगतस्तथा ॥
अर्थिप्रत्यर्थिनोर्वाक्य यच्छ्रुतं भूभृता स्वयम् ।
स एव तत्र साक्षी स्याद्विसंवादे द्वयोरपि ॥

ननु 'न साक्षी नृपति. कार्य' इति राज्ञ' साक्षित्वनिषेधात् साक्षित्वम्' इति चेत् उच्यते । व्यवहारदर्शनकालेऽवगतेष[4] साक्षित्वमुच्यते, कालान्तरापेक्षया निषेध' ।

[1] श्च—क ।
[2] उक्तो—अ ।
[3] धारसाक्षी—ख, ज ।
[4] तस्य साक्षित्वमुच्यते—क, ख ।

था च व्यासः—

राज्ञा धर्मासनस्थेन यच्छ्रुतं [1]तत्वमिच्छता ।
नान्य. साक्षी भवेत्तत्र मुक्त्वा राजानमीश्वरम् ॥

ति ।

हस्पतिः—

निर्णीते व्यवहारे तु पुनर्न्यायो यदा भवेत् ।
अध्यक्ष· सभ्यसहित साक्षी स्यात्तत्र नान्यथा ॥
[[3]राजमूल. सन्धिमूल· द्विविधो निर्णयो मत ।
आद्ये दशाङ्गकथनाद्वितीये च यथाविधि ॥]

त्यायनः—

लेखक प्राड्विवाकश्च सभ्याश्चैवानुपूर्वश· ।
नृपे पश्यति तत्कार्यं साक्षिणः समुदाहृता· ॥

[4]जयपत्रनाशे इद वचनम् । [5]सद्भावे तदेव प्रमाणम् ।

स्पतिः—

मुषितं [6]घातितं यत्र सीमायाश्च समन्तत· ।
अकृतोऽपि भवेत्साक्षी ग्रामस्तत्र[7] न संशय ॥

[1] धर्म—अ ।
[2] इति—नास्ति—क ।
[3] [ ]—ख ।
[4] पत्राभावे—क, छ ।
[5] तत्सद्भावे—क, छ ।
[6] पातितम्—क, छ ।
[7] तस्य—अ ।

मनुः—

यत्रानिबद्धो[1] वीक्षेत शृणुयाद्वापि [2]कश्चन ।
[3]पृष्टस्तत्रसकृद्ब्रूयात् यथा दृष्ट यथाश्रुतम् ॥

कात्यायनः—

अशक्य आगमो यत्र विदेशे प्रतिवादिना ।
त्रैविद्यप्रहितं तत्र लेख्य साक्ष्य प्रदापयेत् ॥

[4]साक्षिणश्च[5] स्वरूपेणागमनाशक्तौ विद्वत्सन्निधौ [6]तत्कृतेन ले साक्ष्य भावयेत ॥ इति ।

अथ साक्षिसंख्या

[7]बृहस्पतिः—

नव सप्तापि वा पञ्च चत्वारस्त्रय एव वा ।
उभौ वा श्रोत्रियौ ग्राह्यौ नैकं पृच्छेत्कदाचन ।
लिखितौ द्वौ तथा गूढौ त्रिचतुःपञ्च लेखिताः ॥

[1] निषिद्धो—क, छ, म ।
[2] किञ्चन—अ ।
[3] स्पृष्टस्तत्रापि यद्ब्रूयात्—क, म ; दृष्टः तत्रापि तत्—मुद्रि (निर्णयसागर) मनु VIII, 76
[4] साक्षिणश्च . . . . भावयेत्— नास्ति—ख ।
[5] च—नास्ति—क ।
[6] तत्कृतलेख्येन—क ।
[7] बृहस्पतिः—नास्ति—च, छ ।

[1]यदृच्छास्मारिता. कुल्यास्तथाचोत्तरसाक्षिण· ।
दूतको घटिकाग्राही कार्यमध्यगतस्तथा ॥
एक एव प्रमाण स्यान्नृपोऽध्यक्षस्तथैव च ।

'[2]घटिकाग्राही' गणक· । [3][' अध्यक्ष· ' प्राड्विवाकादिः] ।

याज्ञवल्क्यः—

उभयानुमत. साक्षी भवत्येकोऽपि धर्मवित् ।

अन्यत्र—

अभ्यन्तरस्तु [4]निक्षेपे साक्ष्यमेकोऽपि [5]वोच्यते ।
[6]आष्टमात् वत्सरात्सिद्धिः स्मारितस्येह साक्षिणः ॥
आपञ्चमात्तथासिद्धि· यदृच्छोपगतस्य च ।
आतृतीयात्तथासिद्धि· वर्षात् गूढस्य साक्षिण ॥
आवत्सरात्तथा सिद्धिः भवत्युत्तरसाक्षिण. ।
अथवा कालनियमो न दृष्ट· साक्षिणं प्रति ॥
स्मृत्यपेक्षं हि साक्षित्वमाहु. शास्त्रविदो जना ।

[1] यदृच्छं—क, ख ।

[2] घटिकाग्राही कुल्यः, उभयानुमत· —क , घटिकाग्राही आकार्यभेदक । म, ल ।

[3] [ ] म, ल ।

[4] निक्षेपो—ख ।

[5] चोच्यते—ख ।

[6] अष्टमात्—ख ।